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**Charter Reform of
New York City's
Planning Function**

**Temporary State Charter Revision
Commission for New York City**

October 1973

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October 15, 1973

The Honorable Roy M. Goodman
Chairman
Temporary State Charter Revision
Commission for New York City
270 Broadway
New York, New York 10007

Dear Senator Goodman:

We are pleased to submit this report on the Charter reform of New York City's planning function.

This report focuses on the several component functions which are most basic to the planning process in New York City. These components include capital budgeting and programming, comprehensive planning, development regulation, public facility location and project initiation, city mapping, housing policy, and urban renewal. In addition, it focuses on the various policy and staff structures which are most important to this planning process. As such, considered are the Policy Planning Council, City Planning Commission, Department of City Planning, Board of Standards and Appeals, Site Selection Board, Borough Improvement Boards, and Community Boards. Also considered are the planning roles of the Mayor, City Council, Board of Estimate, Borough Presidents, and the Housing and Development Administration.

Proposed Charter reforms have been cast in the form of propositions which are organized in accord with five watershed or threshold planning issues. These involve the traditional independence of the planning function vs. its politicization; its present mayoral locus vs. a legislative locus; its decentralization vs. continued centralization; its present apparent fragmentation vs. consolidation; and finally its present location in the municipal overhead structure vs. a line agency orientation. Selection of Charter propositions drawn in accord with these five threshold issues of planning in New York City will provide an underlying rationale for basic planning reform.

There are, however, a great many different devices or instrumentalities which can be employed to implement reform in accord with the Charter propositions selected. The most relevant of these instrumentalities have been analyzed and detailed. In this way, the Charter Revision Commission will be able to define the underlying structure of Charter reform, based on its selection of Charter propositions, and in turn will be able to specifically define the precise instrumentalities which will be needed to draft a new Charter for New York City.

This report also reviews the background of the City Planning Movement nationally and in New York City, including the work of the Charter Commission of 1934-1936 which established the City Planning Commission; current planning practices in New York City, including its processes and problems; and a number of relevant decentralization planning models now under formal consideration or in operation throughout the country.

In the final analysis, the task of reforming the planning function is different, in important respects, from that of reforming the line functions of New York City's government. Planning is, in essence, an overhead function. Its challenge is the challenge of ordering and balancing priorities and trade-offs between conflicting demands in an economy of scarcity for public services. Thus, planning is not a service function, in the sense that New York City's line agencies perform a service function. This distinction suggests that the reform of the planning function presents its own special problems and rationale, different from the problems and rationale of reforming service functions performed by line agencies. This report has been prepared with this distinction in mind.

Sincerely,

A handwritten signature in dark ink, appearing to read 'H M Kahn', with a stylized, cursive flourish at the end.

Howard M. Kahn
Partner

HMK:lah:73-12
Enclosure

cc: Dennis Allee
Edward Robin

CHARTER REFORM OF NEW YORK CITY'S
PLANNING FUNCTION

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INTRODUCTION

This report addresses New York City's governmental planning process; its history; its present strengths and problems; the rationale underlying its various functions and organizational structures; and how the planning process might be improved consistent with the Charter Revision Commission's mandate to strengthen citizen participation in municipal government and improve the responsiveness of the City's governmental institutions. Specifically, the report identifies both underlying and practical issues in the City's planning process and evaluates major Charter options relative to such issues.

BACKGROUND

The evolvement of planning theory nationally, and its practice in New York City, has not always been in step. Most significantly, this was apparent in the evolving emphasis in the 1930's of planning theory nationally toward policy planning as an executive decision-making tool. At the same time, the practice of planning in New York City was to culminate in the establishment in 1938 of a land use-oriented planning commission studiously isolated from the City's political processes.

The City Planning Movement Nationally and in New York City

The big-city political machines, spoils system, and extensive graft and corruption of the major American cities of the late Nineteenth Century spawned the reform movement. At the time, in 1890, the first four cities of America were New York City with a million, five-hundred thousand people; Chicago with a million, one-hundred thousand; Philadelphia with a million, fifty thousand; and Brooklyn with eight-hundred forty thousand. Chicago was growing rapidly and threatened to overtake New York City in population by the time of the next U.S. decennial census.

In 1898, however, New York City and Brooklyn were consolidated to create what was called an "imperial city." This consolidation not only placed the *new* New York far ahead of Chicago and Philadelphia in importance, it also focused much of the government reform movement on the newly-created city. As a result, New York City was to avoid much of the ward politics which have characterized other major American cities, most notably Chicago. Instead, its politics have been relatively "open," characterized by the absence of a single dominant ruling elite and a pattern of political competition and bargaining from which no group has been long excluded.

Beginning with the turn of the Century, reformers generally favored the creation of politically independent boards and commissions to supervise different sectors of city government. Given the popular rationale that political leaders could not be trusted with the present, much less the future, New York's reform movement clearly favored the creation of the kind of independent planning commission then being created in other cities across the nation.

By the 1930's, however, the government reform movement nationally took a different turn. The crisis of the Depression ignited a new appreciation of the role a strong executive might take in the complex affairs of managing government. In this context, the focus of planning changed nationally from an independent stance to one closely related to the chief executive. As a result, while support dwindled nationally for a politically independent planning commission, in New York City an independent City Planning Commission was created in 1938.

The City Planning Commission of 1938 - Purpose

The New York City Planning Commission, created in 1938, was actually a creature of the Charter Commission of 1934-1936, popularly known as the Thacher Commission. This Charter Commission also mandated the creation of a Department of City Planning under the Chairman of the City Planning Commission. Such a Department, under a single commissioner, had been created in 1930, but had never really functioned. Accordingly, in 1933, the Department was abolished and replaced by a Committee on City Planning, appointed by the Mayor; this committee was extra-legal, voluntary, and advisory.

The primary purpose of the new City Planning Commission was "to guide and to influence the city in its development and future growth." It was to be comprised of six members of the City Planning Commission, including its Chairman, appointed by the Mayor for overlapping eight-year terms. The Chief Engineer of the Board of Estimate was also made a member of the City Planning Commission, "with a view to bringing to the Commission his wide experience in connection with capital and assessable improvements." The Commission was to have a staff of "engineers, architects, experts and other officers and employees as may be required."

In addition, an Advisory Planning Board was to be created in each Borough. The duties of these Advisory Boards were to advise the Commission at its request or on the Board's own initiative "in respect to any matter within the jurisdiction of the Commission," and to advise the Borough President "in respect to any matter referred to it by him." The Boards were to each consist of three members appointed by the relevant Borough President for overlapping six-year terms. The members were to serve without compensation, and could be removed only on charges and proof of official misconduct or related reasons. In this respect, the members of the Advisory Planning Boards were intended to be as free of political pressure as were the Commission's members.

The new City Planning Commission was mandated to perform six basic functions.

- Master Plan of the City: "The primary duty of the City Planning Commission," the Thacher Commission notes, would be "to prepare and from time to time modify a master plan of the city which shall show desirable streets, roads, highways and the grades

thereof, public places, bridges and tunnels and the approaches thereto, viaducts, parks, public reservations, parkways, squares, playgrounds, roadways in parks, sites for public buildings and structures, building zone districts, pierhead and bulkhead lines, docks and wharves, waterways, routes of railroads, omnibuses and ferries, locations of drainage systems, sewers, sewage treatment plants, incinerators, water conduits and other public utilities privately or publicly owned, and such other features, changes and additions as will provide for the improvement of the city and its future growth and development and afford adequate facilities for the housing, transportation, distribution, comfort, convenience, health and welfare of its population." (Section 197a)

This description is substantially unchanged in the current Charter, except that the list of functions for which facilities could be planned has been progressively expanded over time. Nonetheless, the basic mandate of the Thacher Commission that a Master Plan be adopted remains to this date unfulfilled. Thus, none of the ten plans for specific kinds of development, such as schools, sewage treatment facilities, health center facilities, highways, and the like, issued and adopted by the City Planning Commission between 1940 and 1963 may be considered "Master Plans" in the sense intended by the Thacher Commission. While the draft 1969 Plan for New York City, issued by the City Planning Commission in 1970, probably accords well with the concept of a Master Plan envisaged by the Thacher Commission, it has never been adopted. It is noteworthy that while the 1969 draft Plan has been subjected to public

hearings in each of the City's 62 Community Planning Districts, the Thacher Commission mandated but one public hearing of the Master Plan.

- City Map: The Thacher Commission also mandated that the existing map or plan of the City be continued (Section 198a), but that it become the responsibility of the City Planning Commission (Section 198b); under the pre-existing Charter, each Borough President possessed the responsibility for that portion of the map which fell within his Borough. The City Planning Commission would have henceforth, of course, responsibility for updating the City Map. No hearings were mandated in connection with this function.
- Projects and Changes in Master Plan: The City Planning Commission would be responsible for the maintenance of the Master Plan's integrity, once adopted. Thus, it was to satisfy itself that "no improvement or project affecting the Master Plan or the City Map and no addition to or change in the City Map" would be authorized, unless in conformity with conditions laid down by the new Charter (Section 199a). A public hearing was mandated, following which the City Planning Commission would recommend appropriate changes to the Board of Estimate for its ultimate action. Should the Commission refuse or fail to recommend a change in the Master Plan or City Map to accommodate a proposed public project, the Board of Estimate could nevertheless authorize the change by a three-fourths vote (Section 199b). The City Planning Commission would then be required to conform the Master Plan or City Map in accord with the Board of Estimate's action.

- Zoning Regulation: Prior to the adoption of the Charter of 1938, the Board of Estimate had been solely responsible for the Zoning Resolution and its amendment. Hearings had been required under the pre-existing Charter.

Under the new Charter, the City Planning Commission would have responsibility for the conduct of the zoning function, including amendments (Section 200). A public hearing was to be conducted by the Commission, after which it would make its recommendation to the Board of Estimate.

The Board, in turn, was not required to take any positive action, although it was required to muster a three-fourths vote to overrule the Commission. Under one circumstance, however, the action of the Commission alone could not be sustained unless approved by the unanimous vote of the Board. This circumstance was one in which a petition of protest was filed by a significant percentage of affected property owners against the City Planning Commission action.

- Platting of Land and Dedication of Streets and Public Places:

Under the pre-existing Charter, the Board of Estimate was required to act on all proposals for the subdivision or platting of land into streets, public places, and the like. The Board might, however, refer such proposals to its Chief Engineer for action, although his disapproval could still be appealed as a matter of right to the Board of Estimate itself.

The Charter of 1938 changed all that. Henceforth, no subdivision map or platting of land could be filed unless approved by the affected Borough President and, upon the City Planning Commission's recommendation, by a simple majority of the Board of Estimate. Only a simple majority of the Board was required to overturn the cumulative favorable recommendation of an affected Borough President and the City Planning Commission, with regard to the filing of subdivision maps and the platting of land. The Board, however, was required to muster an extraordinary majority of three-fourths to overturn the recommendation of the Commission alone, with regard to specific changes in a Master Plan which it was not even required to approve in the first place (Section 202).

- Capital Budget and Capital Improvement Plan: The Thacher Commission attached great importance to the City Planning Commission's role in the budgetary process. The proposed Charter dealt in detail with this function, although the City Planning Commission's role was viewed as only one step in the process, rather than the focus of it. Thus, the task of preparing the one-year Capital Budget would begin in the Commission, "subject to the Mayor's power to limit its aggregate amount, with power in the Board of Estimate by a three-fourths vote to add items or exceed the limit fixed by the Mayor" (Section 211).

The Capital Improvement Plan comprises a projection of capital expenditures for the five years following the Budget Year (Section 215). The Thacher Commission directed, however, that the City Planning

Commission have sole responsibility for the preparation of this Capital Improvement Plan.

The City Planning Commission of 1938 - Rationale

The Thacher Commission was motivated by a number of considerations to reform and formalize the planning process in New York City. As such, it reflected the thinking of the second of the three phases through which planning, as a legitimate and recognized function, has passed.

The first phase had envisaged the planning function as the responsibility of private civic organizations. Perhaps the high point of this phase occurred in 1909, when the Civic Improvement Committee of the Chicago Commercial Club issued an ambitious Plan for Chicago. Its Plan focused on improving slums, platting a rational street system, and creating a "City Beautiful." Moreover, the function was wholly land use-oriented, with solutions to problems rooted in large-scale architectural or urban design panaceas. The Plan did not envisage the creation of a planning agency to oversee its implementation.

The second phase of the planning movement also dated from 1909, when the first National Conference on City Planning was held. During this phase, the creation of separate planning agencies, as a municipal function, came into vogue. Numerous independent planning commissions were created throughout the United States during this period, in accord with the central concept that the commissions should be insulated from the municipal political process. By 1913, such commissions existed in 18 American cities, and Massachusetts had already enacted the first state legislation making city planning a mandatory function of local government. By 1926, city planning

as a function of local government was sufficiently accepted to be proposed in the form of the Standard City Planning Enabling Act by the Advisory Committee on City Planning and Zoning of the U.S. Department of Commerce.

This proposed Act was widely copied by states, as the basis for their city planning enabling legislation. It envisaged a "semi-autonomous" planning commission consisting of "objective, non-partisan" members with "six-year overlapping terms." Such a commission would be "above politics," possess "technical expertise," and have legislative power that could only be overridden by a three-fourths vote of the municipal legislature.

The Thacher Commission clearly had such a commission in mind, when it proposed the creation of the New York City Planning Commission. It is noteworthy, however, that by the mid-1930's, planning theory had already passed on to the third phase, in which planning was increasingly viewed as a function integral to both the executive and legislative branches of government. Nonetheless, the Thacher Commission was still motivated by considerations of independence, technical expertise, and public interpretation.

- Independence: The goal of City Planning Commission independence was to be served on a number of scores. Most important was the requirement that the master plan, official map, zoning, and capital budgeting functions begin in the City Planning Commission. Moreover, certain functions would end there as well. This is reflected in the provision in the 1938 Charter that the Master Plan need be adopted by the City Planning Commission alone, and then merely filed with the Board of Estimate. The requirement

that the Board of Estimate could only override the Commission by a three-fourths vote was designed to protect the integrity of the Master Plan from the vagaries of political pressures.

In addition, the imposition of eight-year overlapping terms for Commission members on the appointing Mayor was to further ensure the autonomy of the City Planning Commission. Thus, the Thacher Commission was concerned lest the independence of the new City Planning Commission be compromised. Accordingly, the Charter Commission spoke at length on this point:

The growth and development of a modern city depend upon the wisdom and foresight with which capital improvements are undertaken and the extent to which the integrity of zoning regulations and of the city map is maintained. Unfortunately such expenditures too often have been undertaken because of local and special pressures and without relation to the interests of the city as a whole. Great waste has resulted and a species of log-rolling has developed in connection with measures affecting local or special interests. Such evils inevitably occur in representative government when several representatives of separate constituencies may join in supporting measures of local or special interest affecting their several constituencies or followings. But such evils are not to be cured by abolishing representative government, or by substituting

one representative body for another. They should be controlled by publicly confronting the representatives with the interests of the public at large. Too often such interest finds no advocacy because the local political or special interest is organized and the general interest is not.

It is therefore proposed to create a responsible, independent commission concerned with the welfare of the whole city, to advise and report upon all questions affecting the growth of the city, including the expenditure of capital funds, changes in zoning and changes in the city map. (New York City Charter adopted by referendum November 3, 1936, effective January 1, 1938.)

It should be noted that the newly-created Department of City Planning was not to be a Mayoral agency, as it is now. Rather, the independence of the planning function was to be doubly assured by both the lengthy, overlapping terms of Commission members and the fact that the Chairman of the City Planning Commission, who also served as head of the Department of City Planning, was also appointed for a fixed term and could only be removed for cause (Section 191).

- Technical Expertise: The Thatcher Commission mandated that the staff of the new City Planning Commission consist of "engineers, architects, experts and other officers and employees as may be required and appropriated for" (Section 195). As a result,

technical judgment would be assured full consideration, free of political pressure.

- Public Interpretation: The 1930's was, at once, the decade of the Technocratic Movement and its popular backlash. Charlie Chaplin's film, Modern Times, dates from this decade. The Thacher Commission was, accordingly, concerned lest the planning function -- newly insulated from political pressures and public accountability -- become too much the captive of a technocratic bureaucracy. For this reason, membership on the City Planning Commission was not confined to particular technical professions, such as was much later to be the case in structuring the Board of Standards and Appeals, for example.

These motivations of independence, technical expertise, and public interpretation were paramount in the mind of the Thacher Commission.

The Charter of 1963

Between 1936 and the most recent Charter revision of 1963, the major instrumentalities of New York City's planning process, its City Planning Commission and City Planning Department, generally functioned under the concepts and specific procedures outlined by the Thacher Commission's Charter of 1936. As a practical matter, during this period the Planning Commission did, in fact, gain a reputation of "independence" from the City's primary political entities, including the Mayor. It did not, however, wholly fulfill the independent stance contemplated by the Thacher Commission. Generally, on most major matters, the City Planning Commission did adhere to the Mayor's policies. Nonetheless, its "independence" of the legislative bodies, and

the kinds of practices that precipitated the 1936 Charter revision, was maintained.

The 1963 Charter revision brought about an alteration in the City Planning Commission which, to a certain extent, altered its basic non-political stature. It did not, however, wholly change the concepts of city-wide perspective and independence of the legislative process envisaged by the earlier Charter. Specifically, two key reforms are apparent in the 1963 Charter, in terms of the organization and functions of the City Planning Commission. The first is apparent in the decision to have the Chairman of the City Planning Commission serve at the pleasure of the Mayor, instead of for a fixed term. The second is no less apparent in the decision to have the City Planning Commission submit its draft capital budget to the Mayor, rather than directly to the Board of Estimate. The underlying rationale for these changes were to strengthen the role of the Mayor in the planning and budgeting process.

The foregoing history of the planning process in New York City has focused on the 1936 Charter revision, and the subsequent 1963 reforms. The rationale for this focus is that any analysis of the planning process today must deal with the policy of independence and the underlying causes, which served as the basis for the creation of the City Planning Commission. *Stated simply, the watershed issue for planning in New York City is whether the conditions which led to the creation of an "independent" City Planning Commission in 1936 still prevail or whether circumstances no longer require a professional semi-autonomous planning entity with city-wide perspective.*

PLANNING IN NEW YORK CITY TODAY

Planning in New York City is carried on in a complex political, administrative, social, and economic environment. Although the New York City Planning Commission would appear to be the locus of planning decisions, in fact it shares this responsibility with other executive overhead and line offices and agencies.

These include, most importantly, the Executive Office of the Mayor, the Bureau of the Budget, and the Housing and Development Administration. In addition, of course, the Economic Development Administration, Environmental Protection Administration, Finance Administration, Health Services Administration, Human Resources Administration, Municipal Services Administration, Parks, Recreation and Cultural Administration, and Transportation Administration all share line planning responsibilities. Some 25 other special or independent departments, boards, agencies, commissions, councils, administrations, corporations, funds, and authorities also affect the planning process in some degree.

Also, there is an internal structure to planning, as distinct from its overhead and line structure. This includes the Policy Planning Council, City Planning Commission itself, Department of City Planning, Board of Standards and Appeals, Site Selection Board, Borough Improvement Boards, and Community Boards. Finally, no description of the planning process would be complete without mentioning the important policy and legislative function filled by the Board of Estimate and the City Council.

Each of these executive overhead and line units, as well as New York City's two legislative bodies, are part of a delicately balanced mechanism. How it works is examined in this section on planning in New York City.

Planning's Major Functions

Planning in New York City can be viewed as a series of related functions. In point of fact, the challenge of planning is to so inter-relate planning's major functions as to make them a single system. This is difficult, although planning's reach is consistently toward the creation of such an internally-coherent system. What follows is a discussion of the major functions involved in the overall planning process, together with the responsible agencies involved. All citations refer to the 1963 Charter, as amended, through January 1, 1969.

- Capital Budgeting and Programming (Ch. 9, Sections 210-230): The Capital Budget is, in effect, a list of authorized capital projects, including the cost of each project, the time necessary for its completion, and the method of its financing. It appropriates all City funds for such capital improvements for the fiscal year beginning July 1 and ending the next June 30. It is financed by City bonds and notes, and whenever possible, is supplemented by outside aid. Such aid, in order of importance, is drawn from the State, specially-established public construction funds and authorities, the Federal government, and private contributions.

The preparation of the new Capital Budget begins almost as soon as the existing Capital Budget goes into effect on July 1. Thus, the Comptroller's Report and Departmental Estimates or requests

are due simultaneously on October 15. The Mayor's Certification as to Maximum Debt is due 15 days later, on November 1. The City Planning Commission holds its hearing during the month of December, and must adopt its Draft Capital Budget by January 2. By February 1, the Mayor's Executive Capital Budget will have been issued, and by February 10, both the Comptroller and City Planning Commission must have issued their comments and recommendations.

Beginning February 10, the Board of Estimate and City Council initiate hearings which run to February 27. By March 15, the Capital Budget must have been adopted. This gives the Mayor until March 31 to effect his veto privileges; either the Board of Estimate or City Council may override the Mayor's veto by a two-thirds vote on or before April 15, although unless both bodies override in identical terms, the Mayor's veto stands. Thus, by April 15, the Capital Budget, as submitted and modified, is deemed finally adopted. Certification by the Mayor and City Clerk must occur by April 30.

The Capital Budget, as a document, offers only limited guidance to the uninitiated seeking information concerning projects to be actually funded and built in the City. Some projects listed in the current Capital Budget never proceed to completion, and many only reach active stages of planning and development in subsequent years. Some are included only for political reasons and are never intended for execution, although this practice has declined since the 1963 Charter. Others are listed merely to indicate their continuing "active" status, with no substantial intention of

implementing action in the current fiscal year. Mere inclusion of a project in an approved Capital Budget does not ensure construction. Delay may occur as a result of the decision by the responsible line agency to treat construction as a low-priority item.

Recently, however, the City Planning Department has sought to make the Capital Budget process more understandable to the City's citizens, and to involve Community Boards more meaningfully in the process. The Department has prepared two handbooks, one focusing on describing general Capital Budget procedures, and the other setting out City guidelines, policies, and priorities with regard to various kinds of capital facilities. These handbooks are being forwarded to all Community Board members; additionally, training sessions on the Capital Budget process are being held for the benefit of Community Boards. The goal is to enable the Boards to make timely and significant contributions to the Capital Budget. These efforts by the City Planning Department should enhance a popular understanding of the Capital Budget process, although it continues to remain a difficult and often misleading document to most New Yorkers. The Borough President of Queens has also recently issued a thoughtful handbook on the Capital Budget process.

The uncertainty which surrounds the Capital Budget no less surrounds the longer-range Capital Improvement Plan, covering the five years following the Capital Budget. Unlike the Capital Budget, however, the Capital Program is only a recommendation by the City Planning Commission. Thus, while it too is submitted on January 2 at the

same time as the City Planning Commission's submission of its Draft Capital Budget, the Capital Improvement Plan is never formally reviewed by the Mayor, City Council, or Board of Estimate. As such, it has relatively little operative effect on actual capital budgets in succeeding years. In effect, it constitutes an estimate of future capital funding needs, as well as a rough indicator of the status and financial requirements for projects not funded in the current Capital Budget.

- Comprehensive Planning (Ch. 8, Section 197): The City Charter mandates a Master Plan for the physical development of the City, to be adopted by the City Planning Commission after public hearings. Legally, the Plan binds only the Commission; for the rest of the City, it is only a recommendation. Even the City Planning Commission need have no firm commitment to it. Although many Commission actions must conform to the Plan, its amendment is relatively simple, requiring notice, hearing, and majority vote.

From a strictly legal point of view, the City's only binding "Master Plan" is the City Map, and the series of facility and area master plans adopted and amended by the Commission since its establishment in 1938. The few that have remained active in the recent past were used principally to maintain the fiction, required by law, that City Map changes conform to a Master Plan or that a Comprehensive Plan lies behind the designation of urban renewal areas. A Master Plan amendment and a map change, or area designation, are generally passed simultaneously, with little pretense that the Plan came first.

In 1970, however, the City Planning Commission issued its six-volume Plan for New York City: A Proposal, as a draft of New York City's first comprehensive Master Plan. Volume One, entitled Critical Issues, is a City-wide overview, and includes a summary and extensive text. The other five volumes are organized by Borough, each containing an introduction on Borough-wide development, sections on community planning districts and special study areas such as Model Cities neighborhoods, and Land Use Policy Maps. The Department of City Planning has also issued several supplements to the Plan.

Since publishing the proposal, the Commission has conducted 62 community hearings on the Plan, one in each community planning district, and five Borough-wide hearings. It currently plans to hold City-wide workshops on major issues involving interested organizations. Meanwhile, although there has been no formal adoption, the Plan is usually referenced by Commission reports in instances in which the City Charter or State Law require a statement of conformity to the "Master Plan." It has also been used by the City to satisfy the Federal requirement for a Comprehensive Community Plan as part of the City's Workable Program, a pre-condition for the allocation of Federal funds for urban renewal and relevant major housing programs.

- Development Regulation (Ch. 8, Section 200): The focal point of development regulation in New York City is the Zoning Resolution, first adopted in 1916 and extensively amended and revised thereafter,

most recently in 1960. The Zoning Resolution is a complex technical document regulating the use of land and air rights by zoning district. It regulates permitted activities; the siting, size, shape, and occupancy of buildings; the extent, configuration, and use of open space around buildings; off-street parking and loading requirements; and the size, illumination, height, and projection of signs.

In overall format, the existing Zoning Resolution as amended closely resembles the comprehensive 1960 amendment, which not only replaced the pre-existing Zoning Resolution, but replaced sections which had remained unchanged since 1916, the year that zoning was introduced in New York City.

In detail, however, the existing Resolution as amended is as different in many ways from the 1960 comprehensive amendment as the latter was from the 1916 version. Thus, one chapter, relating to large-scale residential development, has been extensively revised to accommodate smaller projects and lower-density district development.

Another, creating special-purpose districts, is completely new. The remainder of the Zoning Resolution has been modified and elaborated by a series of small, but cumulatively significant changes in both text and maps. Traditional zoning ordinances have narrowly prescribed standards of development; the 1916 Zoning Resolution was no different in its original form. The 1960 comprehensive amendment to the Zoning Resolution and its subsequent amendments have, however, permitted the City Planning Commission a greater exercise of discretion, along

with an increasing stress on large-scale, multi-lot planning and design, and increasing use of bulk bonuses. It is noteworthy that these changes have occurred without clear guidelines covering the impact of added density. The purpose of these changes has been to encourage land developers to provide special features that the City could not otherwise afford to subsidize or purchase, particularly in Manhattan.

Under the present City Charter, all amendments to the Zoning Resolution must be approved by the City Planning Commission; one exception, never used, permits the Mayor to initiate amendments. Such amendments then lie before the Board of Estimate for 60 days, after which time they become effective, unless the Board disapproves them, or unless affected property owners petition the Board. In the case of a property-owner petition, a three-fourths vote of the Board of Estimate is required to make the change effective.

A third participant in the zoning process is the Board of Standards and Appeals. This Board shares with the City Planning Commission the responsibility for making the necessary accommodations to the Zoning Resolution. The Board's role is limited, in general, to "hardship" variances of the Resolution, and to determining when the conditions set forth in the Resolution for certain "special permit uses" have been met. The Commission, by contrast, is responsible for the Resolution's actual amendment, which can take the form of either a text or map amendment. One result of this bifurcated structure, as between the City Planning Commission and the Board

of Standards and Appeals, is that a certain amount of "forum shopping" occurs, depending on whether an amendment or variance appears more readily obtainable.

General administration of the Zoning Resolution is a responsibility of the Housing and Development Administration's Department of Buildings, and, at the waterfront, the Administration's Department of Ports and Terminals. "Hardship" appeals from their interpretations are made to the Board of Standards and Appeals, with notice of hearings now required to the affected Community Boards. Discretionary certifications are issued by the Chairman of the City Planning Commission; authorizations are issued by the Commission itself; and special permits are issued by the Board of Standards and Appeals or by the City Planning Commission, subject to Board of Estimate action. Permits for air rights over city streets, issued by the City Planning Commission, fall within the special permit category.

Franchises, which may also relate to the use of city streets or other city rights-of-way, are proposed by the Bureau of Franchises and approved by the Board of Estimate, acting on a three-fourths vote. Mayoral approval of such franchises must occur within 60 days of favorable action by the Board of Estimate, unless the Board specifically authorizes a 120-day period for Mayoral review. Franchises may be granted for up to 25 years, with certain exceptions for a more lengthy period of authorization; renewal rights may be granted for an additional 25 years as well. It should be noted

that a certain, albeit limited, amount of forum shopping also occurs, as between the City Planning Commission, which has the power to close streets, and the Bureau of Franchises. This depends on whether a special permit or franchise appears more readily obtainable. In addition, there is some overlap of responsibility, as in the case of franchise for express bus routes. In this case, the City Planning Commission has a general responsibility for planning to improve transportation.

- Public Facility Location and Project Initiation (Ch. 8, Section 199):

Two procedures fix the location of most capital projects. The first is selection by the Site Selection Board, subject to approval by the Mayor; the second is the amendment of the City Map by the City Planning Commission and the Board of Estimate. Other site selection procedures for capital projects, more limited in scope, include the modification of the Waterfront Plan and adoption of Drainage Plans. The Charter requires that all waterfront improvements be constructed only in accordance with "plans for the waterfront of the City."

In practice, Waterfront Plan adoptions are relatively infrequent, principally to "de-map" marginal streets (waterfront streets under the jurisdiction of the Department of Ports and Terminals), or to modify bulkhead or pierhead lines. The location of sanitary, storm water, and combined sewers, drains, pollution control plants, and pumping stations are fixed by Drainage Plans adopted by the Environmental Protection Administration subject to approval by the Department of Health and the Department of City Planning. Also in practice, most facilities included in Drainage Plans

are covered by other Site Selection procedures. Thus, most sewers and drains and many pumping stations are located in the beds of mapped streets, and publicly-built sewage facilities not in street beds are processed through the Site Selection Board.

Other site selection procedures outside the jurisdiction of the Site Selection Board itself include locations for facilities leased by the City, which are authorized by the Board of Estimate, following search, negotiation, and preparation of a Board resolution by the Department of Real Estate. The Site Selection Board does review proposals to withhold city-owned land from sale, for possible public use. Such "holds" are proposed for purposes not normally covered by Board action, for sites for housing or facilities located by City Map action, for example.

In such instances, these holds are referred to a special Committee on Parks, Mapping, and Housing, chaired by a representative of the Comptroller.

- City Mapping (Ch. 8, Section 198): The sites and rights-of-way for streets, highways, parks, playgrounds, bridges, tunnels, approaches to bridges and tunnels, and "public places" are designated by amendment of the City Map. Map designation of property is the pre-condition for either acquisition by the City or private development for eventual cession to the City.

City Map changes are usually prepared by the Borough Presidents' Topographical Bureaus, or, in appropriate cases, by the Parks, Recreation, and Cultural Affairs Administration. These changes are generally initiated by the Borough President, referred to the City Planning Commission for action, and then referred to the Board of Estimate. The Board's majority vote is adequate for approval, provided the Commission has reported favorably; a three-quarters override vote is, however, required if the Commission report is unfavorable, suggests modifications unacceptable to the Board, or has not been received although ten weeks have elapsed since referral.

Mapping does not always assure that acquisition or development will actually take place. Sometimes a project on the City Map is initiated immediately; sometimes, not at all. Typically, right-of-way acquisition for streets follows mapping by a long period, considerably longer than the interval between most site selection actions and acquisitions. Also, special legal consequences flow from street mapping. Thus, as soon as a street appears on the City Map, building is forbidden on the street bed, even though the City has yet to act on its acquisition. Moreover, in the absence of the appearance on the City Map of a street adjoining a building, the Building Department cannot issue a certificate of occupancy.

- Housing Policy (Ch. 8, Section 197): Numerous City agencies play significant roles in shaping the policy and planning

framework of housing in New York City. The Housing and Development Administration, through its constituent departments (Buildings, Rent and Housing Maintenance, Development, and Relocation and Management Services), administers zoning, building, housing and rent regulations, and a wide variety of assistance programs for housing and community development. In addition, the Housing Authority builds and operates public housing.

The New York City Planning Commission and Department of City Planning provide planning support for the City's housing programs, helping develop the Capital Budget, initiating residential zoning changes, and approving project plans. Project plans for public and publicly-aided housing are subject to approval by the City Planning Commission and the Board of Estimate under State law. The Bureau of the Budget is, however, the ultimate shaper of the Capital and Expense Budgets. In addition, it holds the City's purse strings. The Model Cities Administration has also assisted in establishing policy and making special funds available to improve the three critical Model Neighborhood Areas in the City designated for special Federal aid.

The Rent Guidelines Board and the Conciliation and Appeals Board enforce the Rent Stabilization program. The Board of Standards and Appeals interprets the Building Code and grants variances from the Zoning Resolution. In addition, the following special departments set standards and enforce their code regulations on residential as well as other buildings: Health, Fire, Water Supply, Gas and Electricity, Air Pollution Control and Sanitation.

Two inter-agency bodies share the responsibility for planning and coordinating the City's housing policies. One is the Housing Policy Board, chaired by the Administrator of Housing and Development. In addition, the Board includes the Model Cities Administrator, the Chairman of the City Housing Authority, the Chairman of the City Planning Commission, the Budget Director, and the Mayor's Assistant for Housing. The other inter-agency body is the Policy Planning Council, chaired by the Mayor. This Council includes the Deputy Mayor, the Budget Director, the City Administrator and the Chairman of the City Planning Commission.

Power in this complex system is continually shifting. Moreover, City housing policies are continually being affected by actions at other levels of government. For example, based on legislation enacted by the City Council, the City has attempted to employ rent control reform and rent stabilization as major tools of housing policy. This policy has, however, been undermined by the passage of a State vacancy de-control bill, which in turn was at least temporarily superceded by the national Administration's Phase II Guidelines regulating rents for all apartments.

The City Planning Commission has attempted to control housing densities through zoning. But the Zoning Resolution can be overridden by the New York State Urban Development Corporation for the projects it assists, variances can be allowed by the Board of Standards and Appeals for hardship cases, and most City Planning Commission zoning actions must be confirmed, or can be overridden, by the Board of Estimate.

In addition, the Housing and Development Administration, the State Division of Housing, and the Urban Development Corporation have traditionally vied for part of the regional allocation of Federal interest-subsidy programs, pursuing relatively separate and uncoordinated approaches. In Fiscal Year 1972/73, however, all three were covered by an "annual arrangements" package developed by the Policy Planning Council.

- Urban Renewal (Ch. 61, Section 1803): Urban renewal is conducted by the City either with the combined support of the Federal, State, and City governments, or by the City without Federal assistance. Criteria of selection and operation are much the same for all three programs applicable to the City: Federally-Aided Conventional Title I (urban renewal); Federally-Aided Neighborhood Development; and City-Assisted. Each of the three programs is applicable to areas designated by the City Planning Commission as appropriate for urban renewal treatment, based on the fact that each is requisitely substandard and unsanitary.

An urban renewal plan must be submitted by the Housing and Development Administration, and then approved by majority votes of both the City Planning Commission and the Board of Estimate. The Board of Estimate can, however, overrule the City Planning Commission by a three-fourths vote, if the Commission disapproves an urban renewal project, fails to act within ten weeks of referral, or approves with modification unacceptable to the Board.

Planning's Overhead Structure

The locus of planning in New York City is not solely in the City Planning Commission. Nor, however, is it in the Mayor's Executive Office or either of the City's two legislative bodies. In fact, what characterizes New York City's structure is shared power, albeit centrally-shared power, so that simple decisions can become complex, demand Byzantine attention to detail, take inordinate amounts of time in their making, and perhaps most importantly, defy accountability.

There is, of course, a rationale for such a complex structure. It is that this complexity provides a simple check against unscrupulous use of the public trust. Whether this rationale can still be supported today is a central issue of Charter reform. Times change, and once rational structures and processes become outdated. The concern lest the public trust be manipulated by single individuals is displaced by a concern lest it be manipulated by unaccountable bureaucracies. It is against this backdrop that planning's overhead and line structures are examined.

- Executive Office of the Mayor: The Mayor exercises a great many prerogatives which affect the City's planning and budgetary processes. Perhaps most important is his control over the budget process itself, including his power to appoint and remove at pleasure the City's Budget Director. He also controls the Policy Planning Council. His power to appoint and remove at pleasure the Chairman of the Planning Commission, who also serves as Director of the City Planning Department, is also important, since it places the central planning process substantially under

Mayoral influence. This is the case, despite the independent status of the City Planning Commission as a whole. Also, the Mayor's control over the Board of Standards and Appeals is substantial, based on his power to designate its Chairman and Vice Chairman, as well as to appoint all of the Board's membership.

In addition, the Mayor exercises both direct and indirect control over the Site Selection Board, based on his power of final approval over all capital improvement sites and his appointment of the administrative officials who serve on the Board by virtue of their offices. Finally, the Mayor exercises substantial control over the City's planning function, by reason of his direct control of its development function. Thus, his Budget Director must issue the required Certification of Project before planning and budgetary appropriation can become a development reality. His Administrators must also be prepared to execute development. While it is a gross overstatement to say the Mayor controls this whole complex process, it is certainly not an overstatement to say that he can control or at least halt certain aspects of the process. The fact that he does so at a cost of political bargaining and administrative efficiency in no way blunts the point.

The Mayor's Executive Office also includes special units which affect planning in the City. Thus, the Office of Neighborhood Government is focused principally on agency coordination and

and management reform at the local or district level. At present, it concentrates on a six-community experimental program, although some expansion of this effort is currently being attempted. Generally, this effort is regarded as having had limited success in coordinating services delivery. Problems have included lack of formal authority over programs operating in the experimental districts, agency reluctance to modify program goals to accommodate community needs, and the continued existence of widely disparate service district boundaries.

Another form of experimental decentralization is exemplified by the Mayor's Offices of Planning and Development, operating in six areas of the City selected for the importance of their development to the City as a whole. These are Midtown, Lower Manhattan, the Garment Center, Downtown Brooklyn, Jamaica, and Staten Island. In addition to the influential position these six projects occupy within the Mayor's Office, the special offices enjoy a close relationship to the Department of City Planning. Their planning staffs, in many cases, have been drawn largely from the Department, and they often exercise what normally would be Departmental functions within their respective areas. The Planning and Development Offices follow no standard pattern for community participation, but work closely with the local Community Boards and existing community and business groups; for agency coordination, they rely principally on the pressure that can be brought to bear by the Mayor and the Chairman of the City Planning Commission.

At least three other units of the Mayor's Executive Office also perform overhead functions which importantly affect the planning process. These include the Office of Administration, the Office of the Director of Construction, and the Urban Design Council.

The Office of Administration, headed by the Deputy Mayor/City Administrator, is responsible for liaison with the City Council and the Board of Estimate, works with civic groups through the Civic Assembly, and undertakes certain information and management duties. The Office of the Director of Construction, currently headed by the Administrator of Municipal Services, expedites the City's building construction program by developing improved procedures and speeding difficult projects. The Urban Design Council, which consists of 16 distinguished private citizens appointed by the Mayor to advise him on planning and design, relies for staff on the Department of City Planning's Urban Design Group. The Mayor has designated the head of the Department's Urban Design Group as Executive Director of the Council. The Council has, thus far, had relatively limited influence on matters of basic City policy.

- Bureau of the Budget: The Budget Bureau is organized into divisions along substantive functional areas, and into two additional divisions responsible for broad issues of Expense and Capital Budget policy.

The functional divisions, such as Education and Housing, Health and Welfare, and Transportation, are responsible for day-to-day management and control relating to their areas of concern. Each of these divisions is under an Assistant Director of the Budget, who is responsible to the Budget Director appointed by the Mayor. The task forces within each division include a program planner, an examiner, primarily responsible for the Expense Budget, and an engineer, primarily responsible for the Capital Budget.

The Budget Bureau and the Budget Director exercise a considerable centralizing and coordinating influence over program planning in the City and over the Department of City Planning itself. This occurs as a result of the Bureau's detailed familiarity with, and de facto control over, Administration budgets. In addition, the Bureau maintains a predominant role as a result of its close working relationship with the City Planning Department in regard to the preparation of the Capital Budget as well as other matters. Moreover, the Budget Bureau is responsible for preparation of the Executive Capital Budget, based on the City Planning Commission's draft Capital Budget.

It is the Executive Budget which is submitted to the Board of Estimate and City Council for joint review and approval. For this reason, despite its formal relationship to the Mayor, the Budget Bureau also must be responsive to the Board of Estimate and City Council in both the Capital and Expense Budget processes. This means, of course, that it must respond to the prevailing sentiments

of both the Board and Council, as well as to the directives of the Mayor.

- City Council: The City Council enacts local laws, including Charter amendments, resolutions, and home-rule messages. In addition, together with the Board of Estimate, it adopts and modifies the City's Capital and Expense Budgets.

The Council is organized into 15 standing committees: Buildings; Charter and Governmental Operations; Civil Service and Labor; Consumer Affairs; Environmental Protection; Finance; General Welfare; Health and Education; Housing; Industrial Development; Parks, Recreation and Cultural Affairs; Public Safety; Rules, Privileges and Elections; Standards and Ethics; and State Legislation. To the extent possible, one member of the Council staff is assigned to each committee. General studies by Council staff may be authorized by the Majority Leader or ordered by the Committee on Rules, Privileges and Elections. Staff functions, in connection with particular bills, may be ordered by the Chairman of Council committees or sub-committees.

The Council has been traditionally a quiescent legislative body, by and large content to follow the lead of the Executive Administration and Board of Estimate. In a sense, the Mayor and Board propose; the Council routinely ratifies. This is not to say that, over the years, the Council has never initiated any important measures; it has, but they have been the exception, rather than the rule. The Council also has broad investigative powers.

Investigations may be undertaken without approval of either the Mayor or Board of Estimate. Again, its conduct of this function has been less than aggressive, with notable exceptions.

- Board of Estimate: The Board of Estimate includes the Mayor, Comptroller, President of the City Council, and the five Borough Presidents. The Mayor, Comptroller and Council President each have four votes; the Borough Presidents each have two. The Board acts on zoning amendments, changes in the City Map, urban renewal plans, and public and publicly-aided housing projects, among other business. In addition, together with the City Council, it adopts and modifies the City's Capital and Expense Budgets.

The Board of Estimate has been viewed as the center of gravity in the City's political process, and this applies with equal relevance to planning and budgeting processes as well. The Board and Mayor maintain a delicate balance, although the Mayor and his administrative machinery of City government predominate. Nonetheless, the Board's priorities must be considered by operating agencies, as must its interest in specific capital projects.

Planning's Line Structure

Apart from the functionally-oriented planning conducted by the Department of City Planning and the Bureau of the Budget, each of the line Administrations maintains a policy planning office whose main responsibilities are program planning and evaluation. Additionally, planning staffs of departments which ante-date their consolidation into Administrations have been maintained in a number of instances. Many of these planning units have retained considerable

autonomy within their Administration structure. In general, both the Department of City Planning and the operating Administrations seek to foster coordination and avoid duplication of efforts. Nonetheless, the very existence of separate planning functions, without formal interrelationships, causes some problems in this regard.

Identifying the planning components in the operating Administrations is made difficult by the fact that planning is not always centralized. Most of the Administrations created planning sections when they were organized. Some of the operating Administrations also retained the existing planning staffs of the individual departments which were consolidated to form the new Administration. By and large, planning takes place in an informal structure influenced by the administration planning sections, the planning staffs of consolidated departments, and project planning staff demands. Some planning is contracted out to private firms, the most notable of which is the New York City Rand Corporation.

- Economic Development Administration: The Economic Development Administration has the dual responsibility of broad economic development, and of waterfront development in those instances in which public property is not assigned to another agency. Emphasis has been placed on assisting commercial firms seeking to move, industrial renewal, and port development. Planning takes place in the Administration's Office of Planning, and in its two departments: Ports and Terminals and Commerce and Industry.
- Environmental Protection Administration: This Administration is responsible for the City's life-support system, specifically water, air, and waste disposal. This includes the enforcement of City,

State, and Federal environmental standards. A major issue currently facing this Administration is a long range solution to the City's waste disposal needs. Planning is the responsibility of two of its major central offices, and of the three departments within the Environmental Protection Administration. Centrally, the Office of Policy Analysis and the Office of Project Management plan and evaluate Administration programs. In addition, each of the three constituent departments maintains a separate planning staff.

- Health Services Administration: The planning section of the Health Services Administration is under the Deputy Administrator for Program Analysis, Planning, and Budgeting. As such, the section is one of four central staff offices. The Deputy Administrator supervises two offices. One is the Office of Program Analysis, which is responsible for short-term planning and for the preparation of the Administration's operating budgets; the other is the Office of Health Systems Planning, which deals with long-term planning, issue analysis, and Capital Budget recommendations. The Health Services Administration has had to deal with a series of facilities planning issues in connection with new health and addiction treatment programs. The Comprehensive Health Planning Agency is also a Health Services Administration component, which designs the plans for the coordination of private and public health services.
- Housing and Development Administration: The Housing and Development Administration is primarily responsible for housing and community development programs. In view of the serious shortage of housing and renewal funds, the Housing Development Administration has had to find ways to set housing project priorities. Planning is undertaken mainly

in the central Office of Management Planning, and the Office of Programs and Policy. Program review, analysis, budget preparation, and special studies occur in these central planning offices.

- Human Resources Administration: Despite the fact that the Human Resources Administration is the only City agency not codified by law, it administers a variety of programs. These include the City's income-maintenance programs, most social services programs, and the community-based anti-poverty programs.

The Office of Policy Planning, Research, and Evaluation is under the Deputy Administrator for Planning and Program Coordination. Policy planning occurs in three functional units: policy research; economic research, which provides data and analyses census tracts; and income maintenance. The policy research unit conducts on-going research into major policy-alternatives. Presently, the bulk of its efforts are devoted to a study of the causes of poverty and welfare dependence in the City. This unit also recommends legislation on Human Resources Administration-related issues.

- Municipal Services Administration: The Municipal Services Administration provides necessary support services to City Administrations, from the design and construction of buildings to the purchase of materials and operation of the motor pool. Other duties include street lighting, administration of gas and electricity regulations, publication of the City Record, and other municipal media.

The Municipal Services Administrator acts as the City's Construction Coordinator, heading a small Office of Construction within the

Mayor's Executive Office, and as Chairman of the Interdepartmental Committee on Public Utilities is responsible for developing and coordinating the City's energy policy. The Administrator also serves as a member of the Site Selection Board, on which he is represented by the Commissioner of Real Estate.

- Parks, Recreation and Cultural Affairs Administration: This Administration is responsible for planning and coordinating parks, recreation, and cultural affairs programs together with supporting City facilities.

The planning responsibilities of the Administration are shared among its three constituent departments and the Division of Planning. This Division has principal responsibility for preparing the Capital Budget, issuing analyses of the Expense Budget submission, and mapping and site selection. Park mapping and property acquisition are functions of the Park Lands Office, under the Planning Division.

- Transportation Administration: The Transportation Administration includes the Department of Traffic, the Department of Highways, the Department of Marine and Aviation, and the Parking Violations Bureau. Central staff coordinate planning and development policy for the Administration's constituent departments. Planning is largely an internal organization function. Much of the transportation planning for New York City is conducted by the Port of New York Authority, and by the Metropolitan Transportation Authority.

Planning's Internal Structure

That the external structure of planning in New York City is complex seems well-established; however, even its internal structure evidences the fragmentation of functions among a number of planning entities.

- Policy Planning Council: City planning has traditionally been dominated by the architecture and urban design principles. Policy planning, however, is more recent in origin and is almost uniquely an American institution.

Mayor Lindsay created the Policy Planning Council by executive order, when it became apparent that the Cabinet had not worked effectively as a policy-making mechanism. Its responsibilities are to focus on priority issues, including:

- . emergency action on problems with both immediate and long-range implications;
- . project management operations, to assure the most rapid possible completion of projects accorded priority by the Mayor;
- . study and operations research on priority issues requiring multi-discipline analysis and particularly careful review; and
- . preparation and negotiation of the City's Annual Arrangement with the U.S. Department of Housing and Urban Development.

- City Planning Commission: The City Planning Commission is circumscribed in its performance by several major factors. The first of these is its limited geographical jurisdiction; the City for which it must plan is at the center of a populous and built-up interdependent urban region, but the Commission's writ ends at the city boundaries. In area, the City is only a fraction of the New York Metropolitan Region and in population, less than half. As a result, the Commission cannot really plan for or effectively influence, the social and economic forces of the region which determine the City's future.

There are also powerful regional and sub-regional planning agencies operating within the City, especially in transportation. The decisions of these agencies greatly affect the City's development, although the City Planning Commission has only marginal influence over them. The Commission is further constrained by the subordination of the City government to the State government. The State has no comparable planning agency which might serve as an ally of the Commission; instead the City Planning Commission must deal, from a disadvantageous position, with a large number of State agencies which pursue their separate goals, with only limited concern for their impact upon the City's planning objectives.

Finally, the Commission occupies an awkward position within the City government. The Charter of 1936 placed the City Planning Commission in a posture of independence from the Mayor and the City's legislative bodies, to insure a city-wide planning perspective

and to minimize waste in capital projects from log-rolling. For two decades, this position was jealously guarded by the Commission. Beginning in the late 1950's, however, under Mayor Wagner, the Commission's Chairman was brought into closer relationship to the Mayor, but the City Planning Commission itself continues to display strong autonomous tendencies.

The internal structure of the City Planning Commission is one of an independent City board, composed of a Chairman, serving at the pleasure of the Mayor, and six commissioners, appointed by the Mayor for staggered eight-year terms. The Chairman, who also acts as Director of City Planning, receives a salary of \$41,000 per year. The six commissioners each receive \$15,000 annually, except for the Vice Chairman designated by the Mayor, who receives \$19,000.

The Department's staff of approximately 360, including its nearly 100 administrative personnel, is not directly responsible to the City Planning Commission as a whole, but only to its Chairman.

The City Planning Commission's primary responsibilities are to:

- . draft and adopt the City's Master Plan and amendments to the Master Plan;
- . draft the Annual Capital Budget, draft and adopt the Capital Improvement Plan for the five years succeeding the Capital Budget year, and initiate Capital Budget amendments;
- . initiate changes in the Zoning Resolution and grant zoning permissions and special permits;

- . initiate changes in the City Map, review City Map changes initiated by other agencies, and review changes in the City's Waterfront Plans;
- . designate urban renewal areas, review urban renewal plans; and
- . review most City- and State-aided housing projects and all public housing projects.

Adoption of the Capital Budget or of Capital Budget amendments requires additional action by the Executive Office of the Mayor, Board of Estimate, and City Council. The Board of Estimate reviews and may approve or disapprove changes in zoning, granting of zoning special permits, changes in the City Map, approval of urban renewal plans, and approval of assisted and public housing; with the exception of zoning actions, no more than a simple majority is required by the Board of Estimate to override the City Planning Commission.

In the final analysis, the City Planning Commission is structurally organized as a body designed to be independent of political pressures. This is in accord with the theory that such a structural arrangement would raise city planning in New York to the status of a "fourth estate" in the City's power structure, in addition to the Mayor, Board of Estimate, and City Council. The rationale is that its non-elective and staggered-term nature would ensure a substantial and enlightened influence over the future of the City. In fact, the detached nature of the Commission, and its lack of formal political

constituencies, has tended to leave it without a major foothold for such a stance.

Its inability to consistently muster substantial formal powers, political influence, or counterpart staff resources in line agencies has caused it to concentrate on its relatively narrow Charter prerogatives. This, in turn, has tended to render it subject to the substantial political sway of both the Mayor and Board of Estimate. This may not be unfortunate, but it is also not in accord with the informal intentions of those who originally structured the role of the New York City Planning Commission.

- Department of City Planning: The Department of City Planning is a Mayoral agency. Its Director is Chairman of the City Planning Commission, appointed by and serving at the pleasure of the Mayor. It acts as staff to the City Planning Commission at the Chairman's direction.

In addition, it serves as the Chairman's staff in his positions as member of the Policy Planning Council, the Site Selection Board, the Tri-State Transportation Commission, and a variety of inter-agency boards, committees, and public development corporations and offices, including the Welfare Island Development Corporation, New York City Convention and Exhibition Center Corporation, United Nations Development Corporation, and Office of Downtown Brooklyn Development.

The other members of the City Planning Commission lack direct formal access to Departmental staff, although in practice access is generally

available, at least to cooperative or consensus-oriented Commission members. One result of this arrangement is that there is considerable imperative on the part of Commission members to be cooperative with the Chairman, lest they suffer isolation. Uncooperative Commission members must either draw on other professional resources for planning assistance or develop informal and unauthorized arrangements with specific Departmental staff.

The responsibilities of the Department of City Planning are, on a year-round basis, to:

- . provide liaison with Community Boards and local community organizations;
- . monitor developments within functional areas;
- . review items before the City Planning Commission for public hearing, including Capital Budget amendments, City Map changes, preliminary site approvals for publicly-aided housing and turnkey housing, project approvals for publicly-aided housing and all public housing, Master Plan amendments, urban renewal area designations, urban renewal early land acquisition approvals, urban renewal plan approvals, and zoning amendments;
- . review items for calendaring, but not public hearing, including assignments of City-owned property, and landmark and historic district designations;

- . review items, with neither calendaring nor public hearing, including leasing for City use, Board of Standards and Appeals cases, sales of City-owned property, and site selection for capital projects; and
- . conduct special studies in a wide variety of functional and geographic areas.

Its responsibilities are, on an annual basis, to:

- . prepare and schedule hearings on the draft Capital Budget and Improvement Plan, and to suggest new projects and comment on Administration/Departmental estimates.

Its responsibilities are, on an episodic basis, to:

- . keep the City Map up-to-date;
- . prepare the Master Plan; and
- . prepare the Zoning Resolutions.

The Department is organized into a small executive staff, a legal staff, an administrative and public affairs staff, a technical controls staff, three central planning staffs, and five Borough Planning office staffs. The technical controls staff is organized as an Office of Technical Controls, and is responsible for the zoning, housing and urban renewal, mapping, and capital improvements functions. As such, it is ultimately responsible for all actions relating to the Board of Estimate or the Site Selection Board.

In process terms, this Office works closely with the Borough Planning Offices as well as with other sections of the Department. Thus, a request for zoning is first brought to the attention of the Office of Technical Controls, from which it is referred to the relevant Borough Planning Office for field review. This review may, in turn, informally be brought to the attention of the relevant Community Board.

Subsequent to this field review, the Office of Technical Controls will itself review requests for their procedural significance, after which a tentative decision will be made. This tentative decision will, in turn, be referred to the comprehensive planning and community renewal program section to assess its City-wide implications. The Office is then able to make a decision on whether or not the request can be granted without amendment to the Zoning Resolution. Should an amendment be required, the request will be forwarded to the City Planning Commission for appropriate action.

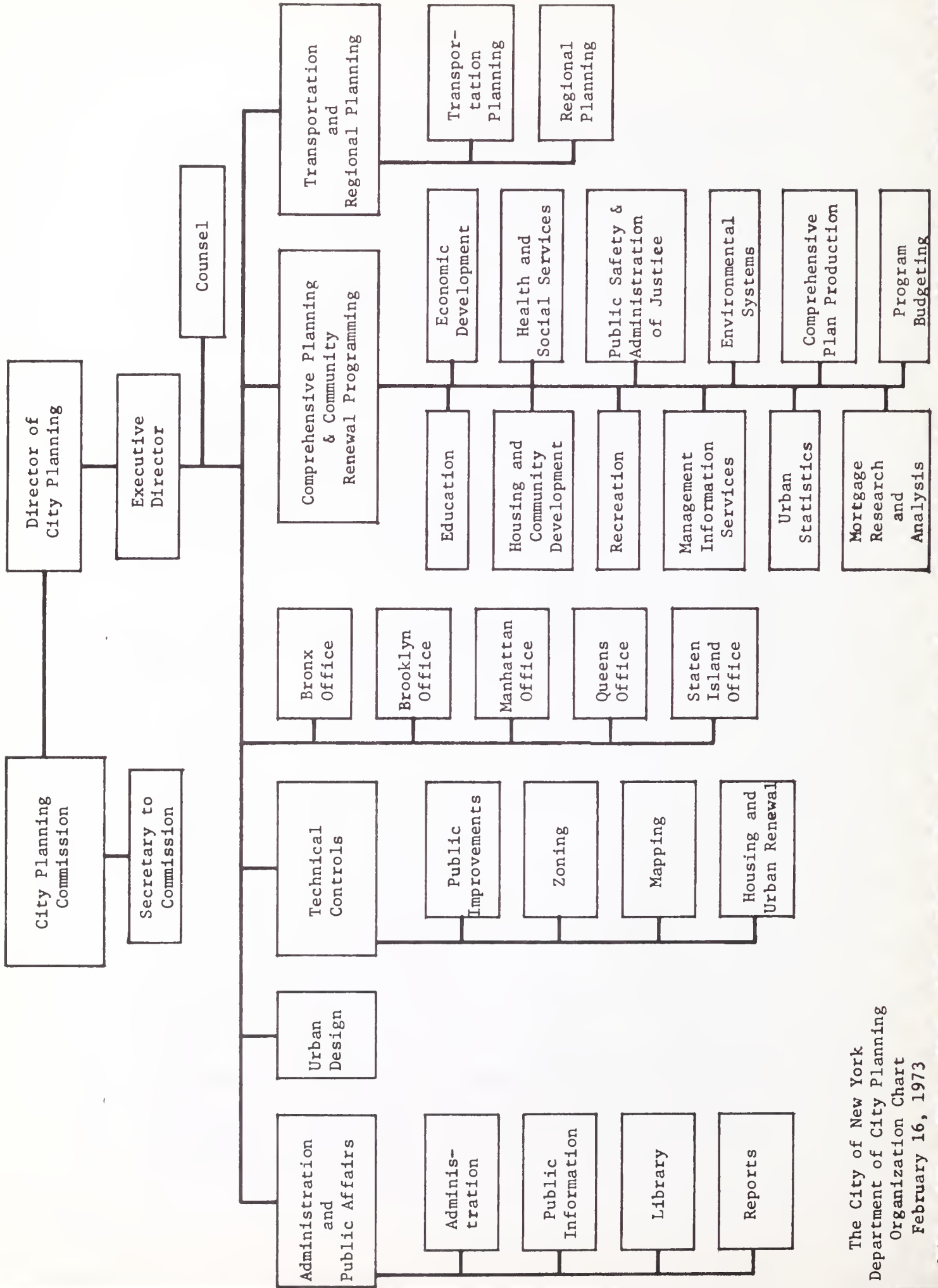
The three central planning staffs are organized into an urban design section, a transportation and regional planning section, and a comprehensive planning and community renewal section; this last section is, in turn, organized into a number of functional sub-sections, including functional sub-sections on education, economic development, housing and community development, health and social services, recreation, public safety and the administration of justice, management information services, environmental systems, urban statistics, comprehensive plan production, mortgage research and analysis, and program budgeting.

The five Borough Planning Offices review all matters before the City Planning Commission or referred to the Department which cover developments within their Boroughs. They also undertake special studies on their own initiative. Staff members are assigned to work with specific Community Boards and to work on major functional areas. A detailed organizational chart of the Department of City Planning is included below.

The following analysis of the Department's staff and budget allocation for personal services offers some indication of the relative importance placed on the different functions; the City Planning Commission's own staff and budget cannot readily be separated from that of the Department.

City Planning Commission & Department of City Planning (FY 1973/74)

<u>Section</u>	<u>Staff</u>		<u>Budget</u>	
	<u>No.</u>	<u>%</u>	<u>\$</u>	<u>%</u>
Office of the Chairman	5	1	\$ 88,000	2
Office of the Commission	8	2	112,000	2
Counsel	8	2	131,000	3
Administration & Public Affairs	45	14	526,000	10
Office of Technical Controls	40	11	552,000	11
Urban Design	21	6	298,000	6
Transportation & Regional Planning	16	4	234,000	5
Comprehensive Planning & Community Renewal Programming	129	36	1,906,000	38
Borough Planning Offices	<u>88</u>	<u>24</u>	<u>1,171,000</u>	<u>23</u>
Totals	360	100%	\$5,018,000	100%



In addition to the staff budget allocation for personal services, the Department allocates some \$280,000 for 20 vacant positions, \$1,470,000 for fringe benefits, \$438,000 for computer equipment purchases, \$25,000 for expert services, and \$1,096,000 for miscellaneous expenses such as consulting studies and similar services. As a result, the total current budget of the Department and Commission combined is \$8.3 million.

Despite this seemingly substantial budget, it is noteworthy that the City Planning Commission as such has formal access to only a small portion of the budget; however, a substantial number of Department staff are oriented entirely to briefing those matters which come before the Commission. In fact, many staff presentations are made directly to the Commissioners; without prior review by the Director who, of course, is also the Commission's Chairman. In some areas, Department staff are also responsive to the Board of Estimate, due to its substantial controls over the planning process, and to the Budget Bureau in light of the necessarily close working relationship of the two agencies.

- Board of Standards and Appeals: This Board consists of five members appointed by the Mayor for six-year, overlapping terms. Of the five, two must be registered architects with at least 15 years of experience as architects; one a professional engineer with at least 15 years of experience in structural work; and one, a professional engineer with at least 15 years of experience in mechanical work. The Mayor designates the Chairman and Vice Chairman from among the members.

Unlike the Chairman of the City Planning Commission, neither serve at the pleasure of the Mayor. The Chairman receives an annual salary of \$35,000 and the other members each receive \$31,000.

An Executive Director of Standards and Appeals is appointed at the pleasure of the Board. He must have had at least five years' experience in administrative or supervisory positions dealing with administration and personnel. He must also devote full time to his responsibilities, which in part involve supervising a staff of 42 persons.

The purpose of the Board is to provide a means of modifying the application of laws and rules relating to construction, zoning, and alteration and use of structures, in order to avoid imposing unnecessary hardships in certain cases. This is to say that the Board's formal responsibilities are to:

- . hear appeals from administrative interpretations of the zoning and building codes;
- . issue variances and special permits under the Zoning Resolution;
- . write rules that implement and interpret the building codes; and
- . approve materials and appliances for use in the City.

In practice, however, the Board has exercised its "equity" jurisdiction somewhat more broadly than was originally conceived, and has granted variances in many situations which arguably overlap the jurisdiction

of the City Planning Commission and Board of Estimate for zoning and map changes. The Board of Standards and Appeals has tended to focus on providing a reasonable return to property owners, and not on planning criteria. This overlapping authority has created a situation in which applicants desiring zoning relief "shop" in the forum most advantageous to themselves; application may even be made to both forums at once. One consequence is competition and a dilution of firm controls over development. Another consequence is that the Zoning Resolution may be insulated from appropriate revision, insofar as relief from inequitable or inoperative provisions may be obtained by variances, rather than by amendment of the Zoning Resolution. The Board's relationship with the City Planning Commission has not always been a friendly one. Disagreements have surfaced from time to time, such that on two occasions, the Commission unsuccessfully sued the Board of Standards and Appeals for having granted a variance or a special permit .

- Site Selection Board: The Site Selection Board is an inter-agency board serving to bring together various interests within the City administration, as well as community interests represented by the Boroughs, for the purpose of determining the precise location of capital improvements.

Members of the Board include the Budget Director, Administrator of the Municipal Services Administration, Comptroller, Borough Presidents for projects within their Borough, and the Director of the Department of City Planning. The Commissioner of Real Estate ordinarily sits

on the Board as the representative of the Administrator of Municipal Services. The Budget Director acts as Chairman.

The Site Selection Board's responsibilities are to:

- . recommend sites for capital improvements to the Mayor for approval, in the absence of other procedures for site selection specified by law;
- . review proposals to hold City-owned land for sale against possible public use.

Board decisions on capital project sites are made following a request by a sponsoring agency and review by one of the Board's four working committees: School Sites Committee, Off-Street Parking Sites Committee; Police and Fire Sites Committee, and Miscellaneous Sites Committee; this last Committee considers all facilities not covered by any of the first three. Board action on "holds" follows referral to the appropriate working committee. The Board, which basically operates without direct professional staff, must have its decisions approved by the Mayor.

The Site Selection Board's purpose can be traced to a 1963 Charter revision designed to shift responsibility for site selection away from the Board of Estimate to Mayoral agencies. The affected Borough President tends to have a substantial impact on the Board's decisions. Nonetheless, its decisions are subject to mayoral approval, so that accommodations must be considered and are normally made on important occasions.

The fact that the Chairman of the City Planning Commission does not sit on the Board as a representative of the Commission itself is some evidence that a major purpose of the Board is to reduce the political independence of site selection as an integral function of the comprehensive planning process. As such, the Board tends to inject a degree of political decentralization into a planning process which is otherwise dominated by a central planning organizational rationale.

- Borough Improvement Boards: These Boards are organized into five Borough councils, each of which is composed of the Borough President and the Councilmen elected from each Borough. The responsibilities of the Boards are to:

- . coordinate the work of the Borough President and Councilmen;
- . facilitate contact between the Borough President, Councilmen, and Community Boards;
- . hold public hearings; and
- . report to the City Planning Commission, Board of Estimate, City Council, and Mayor.

In practice, the Borough Improvement Boards serve to bring the Borough's President and City Councilmen together into a single formal body for common action. As such, the Boards tend to have a politically decentralized influence, although in fact they have not served as very important community forums.

- Community Boards: The Community Boards are organized into 62 district councils, and are composed of the Borough Councilmen at-large, Councilmen representing any part of the district, and up to 50 part-time members. Such members are supposed to be selected on the basis of their interest in the district. Although they need not be district residents, most are. They are appointed for staggered two-year terms by the Borough President, in consultation with Borough Councilmen.

The responsibilities of the Community Boards are to:

- . develop district advisory plans;
- . advise any public official on request or on their own initiative;
- . make annual reports to the Mayor and their Borough President;
- . receive, as a matter of right, and comment on all district items considered at public hearings by the City Planning Commission, Site Selection Board, Board of Standards and Appeals, Landmarks Preservation Commission, and Board of Education.

The Community Boards, in practice, vary greatly in their effectiveness. Some have ready access to their Borough President and are capable of marshalling considerable resources to present and argue their particular point of view. By the same token, some show little ability to affect Borough- and City-wide decisions. Each receives a small budget, although non-councilmanic members serve without pay. Nonetheless, the importance

of the Community Boards has generally grown without their formal recognition as final arbiters of decisions affecting their district. In this regard, they continue to have a strong, if uneven, politically decentralizing influence on the central planning process.

In practice, the Community Boards concentrate heavily on developmental matters, paying particular attention to capital projects. Several Borough Presidents refer all capital budget items to affected Community Boards as a matter of course for advice and comment. Increasingly, Community Board opposition to a project will, as a practical matter, spell its defeat. Rarely, however, do Community Boards initiate projects. This is partially due to their voluntary status and lack of technical and staff expertise.

In recent months, the City Planning Commission has made a determined effort to strengthen the capability of Community Boards and to give them more of a role in the capital process by reviewing Community Board project priorities before the Draft Capital Budget is prepared. By reaching out to the Boards, the Commission seems to be deliberately embarked in an effort to build a local political constituency among the City's communities for its policies and activities.

CURRENT PLANNING PROBLEMS

Inevitably, there is a gap between the mandated processes of municipal government and its processes in practice. New York City is no different. Nor should it be. This is one way relatively rigid institutions such as government agencies have of adjusting to marketplace demands for change, which are not satisfied by planned reform. The point is, however, that the difference between how governmental processes are supposed to work and how they actually work is a problem in itself, since access to these processes is accordingly uneven. In this way, government agencies can always choose at will to adhere to the letter of their mandates in some situations, while exhibiting flexibility in others.

What follows is a summary highlighting the major problems of New York City's current planning process. Many problems arise out of the difference between official mandate and unofficial practice. Many, however, arise out of conflicting mandates. In either case, planning seems to be the worse for it.

The following summary of current planning problems is primarily based on extensive interviews with active participants in the process, as well as with a number of knowledgeable non-participants. In addition, a great deal of the formal testimony before the Charter Revision Commission was reviewed, including the testimony of both the former and current Chairman of the City Planning Commission and the testimony of all five Borough Presidents. A complete list of those interviewed is included in the Appendix of this report.

This analysis of New York City's planning function did not contemplate an in-depth study of all its various processes, problems, and instrumentalities. Rather, it is a compilation of major actual and perceived problems, largely predicated on the experience and impressions of knowledgeable New Yorkers about the planning process and its future.

- Credibility of City Planning Commission's Independent Stance:

The City Planning Commission suffers a problem of credibility on at least two scores. First, despite its intended organization as an independent, non-political Commission, it is still widely viewed as a political Commission.

One reason for this view is that its Chairman is, in fact, political and directly accountable to the Mayor. This means, of course, that the Department of City Planning -- under the Chairman's direction -- must be politically responsive as well, as indeed it avowedly is; however, insofar as the distinction between the avowedly political Department is blurred, the Commission appears political as well. This is one reason the independence of the City Planning Commission is not widely accepted.

Another reason is that in many respects, there is a great deal of political continuity between mayoral administrations. In part, this is due to the fact that the City is dominated by one political party, despite occasional and even important departures. Nonetheless, this general continuity, reflected in the non-mayoral members of the Board of Estimate and in the City Council, has tended to diminish differences between City Planning Commission members whose terms are

intentionally staggered and, accordingly, apparently owe their political allegiance to an earlier mayoral administration. This, of course, is part of the genius of the American system of government, but in ensuring political continuity, it also is little able to sustain the concept of political independence as well.

A third reason, however, also accounts for the popular judgment that the City Planning Commission lacks independence. Structured as it is, so that only the Chairman has direct access to the Department of City Planning as a mayoral agency, Commission members are inherently weak and therefore dependent on an avowedly political agency for staff support. In short, insofar as Commission members lack their own staff and must accordingly depend on a political process for staff support, they must necessarily be viewed as political Commissioners. This is not to suggest that the situation should be otherwise; it merely suggests yet another reason that the political independence of the City Planning Commission has not been sustained in the popular mind. To the degree that the reality and perception are out of step, a problem of credibility exists.

Another wholly different aspect of the Commission's problem of credibility turns on the perceived failure to direct change in accord with its intention. The point has been made over and over again that planning is by nature diffuse. By intention, the planning function has a broad scope and attempts to reach far. Nonetheless, the reach of the planning function in New York City is, perhaps, more limited than in most cities; in part, the very social and economic vitality

of New York tends to limit planning. Thus, while New York more than most American cities may need the coordination which planning might provide, it is in New York that planning faces the greatest obstacles to accomplishing its task. As a result, the City Planning Commission -- as the apparent locus of planning -- suffers. Its credibility as the City's ultimate "orderer" of priorities is questioned. This is clearly a problem of credibility as well.

- Budgetary Weaknesses: The City Planning Commission is mandated with an important role in the budgetary process. The draft Capital Improvement Plan is a case in point. Its purpose is to order public development priorities five years hence. This involves a great deal of research, hard work, discussion with line agencies, Community Boards, Borough President Offices, and -- of course -- the Bureau of the Budget. Hearings are held, and a draft Capital Improvement Plan is issued which purports to have a substantial legitimacy as a planning guide to future public development.

The fact remains, however, that the draft Capital Improvement Plan enjoys little in the way of real legitimacy. It is not adopted formally by the Board of Estimate, City Council, or Mayor. The priorities it enunciates have little actual weight, and -- in fact -- may reduce accountability by appearing to be something it is not. This is also true for the Capital Budget, but it is vastly truer for the Capital Improvement Plan. While it does not necessarily follow that there should be no Capital Improvement Plan, even in the absence of the Charter mandate that there be one, it does suggest

that it should be no more or less than it purports to be; this can either be a formal statement or long-term capital improvement which has a force of law and is therefore a reliable guide to development policy, or it could be an informal staff document which forces the consideration of future costs of present decisions without appearing to guide development. One of planning's challenges is to rationalize the capital budgeting and programming processes, so that it is a real measure of things to come, rather than a mere process which may happen to commit development on an episodic basis.

Accordingly, to the degree that the Capital Budget and the Capital Improvement Plan are unreliable indicators of the City's intentions, the mandated role of the Commission is weakened. This is not merely a matter of credibility, although this is an issue as well. Rather, it is the City Planning Commission's access to the budgetary process which may be central to its importance. Accordingly, to the degree the process is itself an unreliable indicator, to that degree is the City Planning Commission weakened *in fact*.

- Duplication: In many respects, the City Planning Commission performs a duplicative function, particularly with regard to the Board of Estimate's review of the Commission's decisions on zoning, mapping, and housing. Were the independence of the Commission better established, the fact that a political Board of Estimate must or might act on its decisions would matter less; however, the independence of the City Planning Commission is not established, at least in the popular mind. As a result, the professional, non-political screening

function the Commission is intended to perform, relative to the political Board of Estimate, is not performed. Thus the duplication in one respect.

The other respect turns on the Commission's duplicative role *per se*. The point is that, even were the non-political screening role credible and well performed, there remains a question whether it ought to be performed in any case. Successive revisions of New York City's Charter have reflected an intention to diminish planning's political independence, without squarely facing the question of whether political independence is a stance which planning ought to maintain. As a result, there is some duplication of effort and some duplication of processes. This, too, is a problem of planning in New York.

- Forum Shopping: Duplication of effort and processes can be rationalized under certain circumstances. In an appellate procedure, apparent duplication ensures access to more professional review. It is the nature of such review that each appellate forum be, by turns, less political as well.

There are, however, forums in New York City which are more or less parallel. The two most obvious of these, in the context of the planning function, are the City Planning Commission in its performance of its zoning responsibilities, and the Board of Standards and Appeal in its performance of its variance responsibilities. Thus, zoning text and map amendments are the responsibility of the City Planning Commission and its staff arm, the Department of City Planning, under

the direction of the Commission's Chairman. Hardship exceptions to the Zoning Resolution, which is to say variances, are the responsibility of the Board of Standards and Appeals. Zoning amendments are subject to review by the Board of Estimate; variances are not subject to any administrative or legislative review beyond the review of the Board itself.

While the integrity of both the Commission and the Board is quite high, it seems axiomatic that the Commission -- as drafter and keeper of the Zoning Resolution -- would be generally reluctant to grant amendments. By the same token, it seems no less axiomatic that the Board of Standards and Appeals -- an an independent body, the main function of which is to consider hardship-motivated exceptions -- would be generally willing to grant variances. In effect, the functional distinction between the Commission and Board is the same distinction which was once used to rationalize the creation of courts of equity outside the main system of courts of law.

The point is that forum shopping is endemic to such an arrangement, and such shopping does occur with a good deal of frequency between the City Planning Commission and the Board of Standards and Appeals. This shopping encourages conflict, and may in addition encourage inequities as well. Thus, conflict between the Commission and Board has even become sufficiently heated to impel the Commission to sue the Board over a variance it granted a builder in the Lincoln Center area (the Board was upheld). It seems reasonable, however, to assume

that resort to court action by the Commission against the Board merely reflected the "tip of the iceberg" of their mutual differences.

This suggests certain inequities as well. Thus, an inequity turns on the seemingly superficial issue of forcing appellants to choose between Commission or Board, and thereby risk offending one or the other for purposes of future appeals. This could present a particularly complex issue of strategy to a builder who must frequently go before either the Commission or Board to request zoning relief. Such relief could take the form of a favorably liberal staff interpretation of an amendment to the Zoning Resolution on the one hand, or a variance, on the other. In either case, the appellant must make a choice of forum.

While having to make such a choice may elicit only limited concern for a sophisticated large builder, it should be noted that the choice must be made by an unsophisticated small builder or homeowner contemplating a house improvement as well. This choice is additionally complicated by differences in procedural regulations and review processes.

Separation of these two functions may also diminish the likelihood that needed major revision of the Zoning Resolution will occur, insofar as variances can be repeatedly granted outside the Resolution and the Commission having responsibility for its revision. This could mean, on the one hand, that the integrity of the Zoning Resolution is more readily maintained; on the other hand, it could mean that the rigidity of the Zoning Resolution may be more readily tolerated.

In any case, it forces both the sophisticated and unsophisticated to choose at their peril between two apparently parallel agencies. This, on its face, suggests an inequity.

One effect of all this is that builders may be required to run the gamut of administrative review more frequently than ought to be necessary, which is costly, time-consuming, a deterrent to innovation, new construction, and rehabilitation, and -- in the final analysis -- inequitable. This is not to say that there is no adequate rationale for separation of the zoning amendment and variance functions; it is to say that separation brings with it certain planning problems which must be balanced against the benefits of maintaining this separation.

- Zoning Rigidity: This point has been largely briefed as part of the problem analysis based on the mandating of more or less parallel functions in the City Planning Commission and Board of Standards and Appeals, with regard to the Zoning Resolution and its revisions. Thus, the very existence of relief in equity for hardship reasons permits the basic law to remain unchanged.

Depending on the point of view, such an arrangement can enhance the integrity of the law or tolerate rigidity. If rigidity is the more likely occurrence, there may be an inherent inequity in any case, insofar as the unsophisticated or uninfluential might not have ready access to the alternative forum. As a result, they may be effectively taxed by a law which is more frequently breached than enforced. While this is not clearly the case of the Zoning Resolution, the basic problem of possible rigidity remains.

- Geographic Preoccupation: The traditional land-use orientation of the function planning, not only in New York City but most American cities, is well established. In point of fact, however, the City Planning Commission and its departmental staff have in recent years substantially extended their purview beyond mere land use regulation. Nonetheless, the Commission's responsibility for the City Map and Zoning Resolution is central to its actual influence over New York.

The City Planning Commission has also long been preoccupied with Manhattan, to the occasional neglect of New York's other Boroughs. Again, its focus has become broader in recent years, with the establishment of Borough Planning Offices, Community Planning Districts and Community Boards, and a number of special public development offices such as the Office of Downtown Brooklyn Development. Nonetheless, there is a popular conception that the City Planning Commission and Department of City Planning remain at least in part preoccupied with Manhattan's development.

- Operational Irrelevance: Planning is intended to play a coordinative role in municipal government. In as complex an organizational structure as New York's, this is a major task of planning. A problem of planning, however, is that line agencies often view the Department of City Planning as merely meddling in their administrative affairs.

As a result, the line agencies may be less than candid in their dealings with the Department. Line agencies may even go as far as to mislead the Department, to avoid its oversight function. To the

degree this occurs, planning is weakened. Accordingly, a problem of planning is to legitimize its role in the functioning of line agencies, unless -- of course -- planning should be more narrowly circumscribed.

The diffuse nature of planning also has a weakening effect. This is, to some degree, merely another way of saying that the separation of planning and operations makes for certain weaknesses in both functions. Thus, planning is isolated from the realities of service delivery; and operations is isolated from the potentialities of planning innovation.

Housing is a case in point. Planning's interest in housing policy is well established; it may even be excessive. Nonetheless, in the hands of the Department of City Planning, it is isolated from the agencies which most closely control the construction and maintenance of housing in New York City, including most importantly the Housing and Development Administration and the New York City Housing Authority. To the degree that the Department of City Planning should become involved in the details of housing policy, which is to say its administration, to that degree is its impact weaker than it might be were the Department lodged within the Housing and Development Administration.

- Centralization: One critique of planning in New York is that it is too centralized. Actually, of course, the Department of City Planning maintains administratively decentralized Borough Planning Offices which, in turn, are responsible for establishing a working relationship with and sensitivity to the Community Boards.

Nonetheless, the organization of the Department is clearly central, and the fact that New York has but one City Planning Commission without parallel or subsidiary counterparts in the City's Boroughs is another clear indication of the central nature of the planning function. In addition, the Department is also a mayoral agency, and to the degree that the whole Commission is mayorally-oriented, to that degree is the central nature of planning in New York City established.

One result of excessive centralization can be that planning is not sensitive to district variations, or even to program variations. Another is that planning's coordinative function is not fully effective, by reason of its geographic or administrative isolation. A third result is that the isolation of planning may deny it any cohesive constituency. A fourth result is that planning could be, very simply, politically irrelevant. Planning must, accordingly, overcome the isolation of its central position and attention, unless planning should indeed be by nature an oversight policy function.

FIRST PRINCIPLES AND ANALYTIC FRAMEWORK

The reform of the planning function in New York City can be analyzed in terms of a number of first or organizing principles. These, in effect, can serve as the basic criteria for reform.

First Principles

The following first principles or criteria for planning reform are, accordingly, suggested:

- Improve Political Accountability and Responsiveness: Perhaps the single, most striking issue of planning and resource allocation is that of political accountability and responsiveness. It was in response to this issue that New York City's Community Boards were organized. Additional clarification of lines of administrative responsibility will inevitably also clarify lines of political responsibility as well. In this way, political intervention in the planning process can become less crisis-oriented, and more measured. It can also become more "open," which is the essence of political accountability.
- Limit Intervention of Central Municipal Public Policy and Administration to Accord with Real Government Concerns: The popular charge is made that central public intervention is uneven, and in any case too deep, with regard to affairs which are wholly community-oriented and have only limited relevance to City-wide concerns. As a result, decisions which are essentially local in nature became over-laid with extraneous issues and concerns, delaying the rational decisional process and, in addition, diminishing the likelihood that decisions will be both responsive and correct.

- Ensure Consideration of Minority Points of View: The structure and purpose of planning are uniquely equipped to consider points of view which are unpopular or have little popular support. It is almost the essence of politics that it responds to organized constituencies, frequently ignoring or giving inadequate attention to minority points of view. Such viewpoints may have only incidental racial and ethnic significance; this is the case insofar as planning is in great measure concerned with future issues perhaps only dimly foreseen, but nonetheless of enormous importance if events occur as anticipated. The structure of planning should, accordingly, be organized to encourage the present thoughtful consideration of those eventualities and issues which enjoy only relatively limited popular support.

- Balance Need for Uniform Central Perspective Against Need for Sensitivity to Community Viewpoints: The successive budgetary crises which New York City has experienced over the years is evidence enough that it must improve the allocation of its resources, City-wide and in its communities. This means that there should be certain threshold standards which apply throughout New York, and yet assure that the social and economic differences of its many communities are respected. Given this point of view, appropriate innovations could be continually tested and implemented in the communities, not only to the obvious benefit of the communities themselves, but to the City as a whole. Sensitive community-oriented planning could also enhance the likelihood that appropriate innovations will occur.

- Improve Operating Relevance and Coordination of Planning Relative to Budgeting and the Delivery of Public Services: The planning function too often suffers an isolation from the real world of service delivery. Planners have been too often accused of meddling in the affairs of line agencies, when they lack either the authority to intervene or the responsibility for the ultimate delivery of services. The financial resources of New York City are too scarce to countenance the continued isolation of planners; in any case, there is too great a need for their foresight and innovation. Accordingly, planning should be appropriately related to the delivery of services and their coordination.

- Improve Balanced Allocation of City-Wide and Community Costs and Benefits: Planning should help balance not only the competition for public funds between New York's diverse communities, but the competition between its communities and the City as a whole. One of the most complex issues, in this regard, turns on the problem of equitably allocating costs to a few communities which reap benefits for all or most New Yorkers. A graphic example of this problem is illustrated by the difficulty of locating such unattractive capital improvements as marine transfer terminals. The point is that each of the City's communities generate garbage, and therefore benefit from city-wide garbage collection and treatment. But only a few communities will bear the costs of its ultimate collection and transfer at marine terminals, inherent in having to serve as the sites for such facilities. In this sense, almost inevitably some communities must benefit (in having their garbage

collected), by reason of the fact that some other communities will bear at least a portion of their costs (in providing the sites for such facilities as marine transfer terminals). The planning function should provide the basis for an equitable balancing of these costs and benefits.

- Improve Community Participation by Providing Adequate and Timely Notice with Full Disclosure: Planning should be an almost uniquely "open" process, which provides part of the rationale for isolating it from the traditional "closed" political process. Actually, of course, the "closed" political process is no longer so closed, and as a result, free and active community participation in the political process has increased substantially in recent years. By the same token, community participation in the non-political planning process has also increased. This is as it should be, with planning perhaps taking the lead in encouraging open participation by New York's diverse communities. Thus, adequate and timely notice with full disclosure, including access to technical background information and opportunities for substantial review, are essential to a relevant and open planning process.
- Rationalize the Decisional Process, so that Issues are Decided at Appropriate Levels of City Government: An important function of planning is to anticipate and review concerns in advance of their becoming crisis-oriented political issues. In this way, not only can crises be avoided, but planners can perform a deliberative background function for political decision-making. In addition,

planners can even review crisis-oriented issues, but within a deliberative environment, thereby enhancing the likelihood that political review will itself be deliberative and rational. It is essential that this process not only balance city-wide concerns against community concerns, but provide a basis for winnowing out relatively unimportant issues of only parochial importance from those which are global in nature and warrant review at the highest appropriate levels of municipal government.

- Diminish Unnecessary Administrative Duplications, Complexities, and Delays: If the planning function should be the municipal model of professionalism, it follows that it should exhibit the least unnecessary duplication, the fewest unnecessary complexities, and minimum number of unnecessary delays. It should, in addition, be able to encourage reforms in the allocation of resources which will have the effect of improving the administrative machinery of other municipal bureaucracies. Such reforms could include capital improvement or even service delivery alternatives which permit more streamlined bureaucratic procedures.
- Maintain the Integrity of Land Use Decisions: It is necessary to maintain public confidence in the integrity of land use decisions. While many have disagreed with certain specific City Planning Commission decisions, the Commission has been untouched by scandal since its creation 35 years ago. This position has been maintained in the face of the fierce speculative pressures with respect to Manhattan real estate. Any new planning structure should be concerned with continuing this record.

Analytic Framework

The fundamental problem of defining planning propositions for Charter reform centers on the endemic tension between the basic concept of planning and the decentralization of planning authority. Thus, "planning" can be viewed as a collection of analytic procedures for bringing order and coordination to what would otherwise be the diverse and uncoordinated actions of a great many public and private agencies, groups, or individuals. In this sense, the overall efficacy of planning is maximized insofar as any and all actions are brought within the jurisdiction of the planning process.

In essence, the purpose of planning also requires a purposeful limitation on individual freedom. That such a purposeful limitation is well-established, at least conceptually, in the body of common law which frames due process, in no way diminishes the point that public or community purposes must frequently conflict with private or individual purposes. "Due process" implies a balance, and it is surely the challenge of contemporary government in New York City to improve this balance, lest seeming City-wide concerns consistently overwhelm legitimate community and individual concerns. After all, the rationale for planning -- and public intervention generally -- should be to protect freedoms by ensuring equitable access to rights, rather than to limit them.

This, then, is the "Catch-22" of decentralized planning, for maximizing decentralization is equivalent to maximizing non-planning. Thus, to speak of "decentralized planning" is to speak of a partial contradiction in terms. To some extent at least, decentralization in the planning

context requires a balancing of community/individual freedom of choice against the need of the City at-large or body politic to "plan" for the benefits of all communities and individuals. It is hardly surprising that the process of planning is so often accompanied by community or individual conflict; it is no less surprising that planning enjoys so few friends.

This balancing process is frequently a "zero-sum" game. In other words, when City-wide interests dictate a planning decision opposed by a community, one side "wins" to the extent the other "loses." Thus, the location of marine transfer stations or public housing projects are cases in point of "zero-sum" planning decisions; factors which arouse community opposition can be mitigated to some extent, but community desires can only be fulfilled by locating the facilities elsewhere. This means, inevitably, that some communities must bear the special costs of providing sites, while other communities, or the whole City for that matter, reap the benefits.

Even with regard to facilities or services which are desired and demanded by communities, however, the game has a "zero-sum" quality. City resources are limited so that to the degree that one community "wins," to that degree some other "loses." Thus, not only can community interests be in conflict with City-wide interests, but the interests of some communities frequently conflict with those of other communities as well.

Nor does the web of conflict stop here. Communities, after all, no less than cities, do not speak with one voice; conflicts can occur internally as well as externally. Again, the "zero-sum" game is played. Bringing

balance to the game is part of the planning function. The balancing of alternatives, almost by definition, cannot be decentralized without sacrificing "planning." It would be a final irony of decentralization, in the planning context, if it were merely a token gesture limited to games involving no conflict and, therefore, no "zero-sum."

The point is that meaningful decentralization may be fundamentally and axiomatically in conflict with difficult City-wide planning decisions. To the extent that decentralized planning becomes a reality, and communities are granted effective participation in the portions of the planning process important to them, then City-wide interests may be compromised.

THRESHOLD PLANNING ISSUES

Certain threshold or watershed issues confront the planning function in New York City. Their resolution is necessary, if the City's planning function is to be rationalized. Accordingly, these threshold planning issues warrant attention: Independence vs. Politicization; Mayoral vs. Legislative Locus; Decentralization vs. Centralization; Fragmentation vs. Consolidation; and Overhead vs. Operating Agency Orientation.

Independence vs. Politicization

The watershed issue of independence is, perhaps, the central issue of planning in New York City. The history of the planning movement nationally and in New York has been traced. It is clear that the Thacher Commission was motivated by the desire to create an independent City Planning Commission, isolated as much as possible from episodic, parochial political processes.

Over the years, however, this isolation has been eroded. Most importantly, the Chairman of the City Planning Commission was made a "commissioner apart," not only to serve at the Mayor's pleasure, but to direct the Department of City Planning as a mayoral staff. The result of these important reforms has been, at the very least, to make the City Planning Commission appear more political, although the reality is that it tends to be relatively independent. Nonetheless, its dependence on an intentionally political Chairman for access to departmental staff clearly tends to weaken the Commission's independence and, of course, politicize it.

Having said all that, the question still remains: *Should the City Planning Commission, as the apparent locus of the planning function in New York City, be independent?*

Mayoral vs. Legislative Locus

The locus of planning in New York is another watershed issue. The City Planning Commission has, from the beginning, been closer to the Executive than the Legislature. Thus, Commission members have always been appointed by the Mayor, subject to staggered terms, with the early exception of the Chief Engineer. Moreover, while the Department of City Planning was initially responsible to the City Planning Commission as a whole, the Mayor controlled the appointment of its Director. Thus, the Charter of 1936 gave the Mayor the right to appoint the Commission's Chairman and vested both the Chairman and Director positions in one man.

It is also noteworthy that the Charter which established the City Planning Commission limited the right of the Mayor to remove Commission members, although only for carefully prescribed cause. This restriction was inserted for the purpose of "securing that permanence in the membership of the Commission which is so essential to long-range planning." No legislative consent to Mayoral appointments of Commission members has ever been required. In fact, the only major direct influence the Board of Estimate could impose from the beginning on the City Planning Commission has been negated by the deletion of the Board's Chief Engineer from the Commission's membership. As a result, its influence has had to be indirect, in the form of its political review function. At the same time, the City Planning Commission has been more closely allied with the Mayor, if for no other reasons than that its Chairman now serves at his leisure, and that the Department of City Planning is now clearly a mayoral agency under the direction of the Commission's Chairman.

The question remains, however, whether this arrangement provides the best locus for planning. In short: *Should the Department of City Planning in New York City be organized as a Mayoral agency?*

Decentralization vs. Centralization

A third complex issue confronting the planning function in New York City revolves around the nature and degree of appropriate neighborhood or community participation in the planning process. Local participation in planning could occur under a variety of procedures, including advisory review, "first-resort" review within an appellate process, or even final authority over some planning decisions. Under each procedural technique, community participation could be sought with respect to a wide range of planning decisions. Thus, zoning, variances, site selection, and urban renewal are but a few of the many planning decisions which could be devolved in some degree to the community level.

Selection of appropriate procedures and functions for decentralization will inevitably depend, at least in some measure, upon policy decisions made outside the planning arena. Most importantly, this will involve the nearly mutually exclusive choice between administrative or political decentralization of municipal government, on the one hand, and continued centralization of municipal authority, on the other. While this difficult choice is potentially applicable to all municipal functions, the choice between centralization and decentralization is particularly difficult with regard to the planning function. The reason should be obvious. It is the nature of planning that it reach for a central focus; in fact, in many respects, this central focus is the essence of

planning. As a result, decentralization -- whether administrative or political -- tends to diminish the planning function.

But planning serves a purpose: to improve the present and future allocation of resources. If decentralization serves this purpose, which is to say that if less planning results in improved services, then surely the end of planning is itself served. Accordingly, the following question still remains: *Should New York City's planning function, or at least some of its component functions, be decentralized?*

Fragmentation vs. Consolidation

A tendency has existed, in New York City's current planning process, to separate or fragment portions of the process which, though similar or related in nature, were apparently felt best performed independently from other parts of the process. Thus, the Board of Standards and Appeals, with no formal relationship to the City Planning Commission, provides hardship relief from the Zoning Resolution administered by the Commission. By the same token, franchises initiated by the Bureau of Franchises sometimes overlap with Special Permits granted by the Commission.

The Site Selection Board designates sites for capital improvements -- a function which could be distinct and separate, but is yet closely related to the mapping and capital budgeting processes under the jurisdiction of the City Planning Commission. On a broader scale, the Department of City Planning and the Bureau of the Budget each plays similar roles in the Capital Budget process, and maintain somewhat overlapping relationships with the line agencies. Finally, substantial duplication occurs in the comprehensive planning process, since most Commission

decisions are subject to a review and override by the Board. But through all these specific examples of apparent municipal fragmentation runs a common thread: *Should the currently fragmented elements of the City's planning process be combined and consolidated?*

Overhead vs. Operating Agency Orientation

From the beginning, the planning function has prized its independence. At the same time, it has sought a relatively lofty stance for itself, looking to the future for how things ought to be, regardless of how they were. This has, inevitably, meant that planners have tried to stand apart from the workaday planning concerns of delivering seemingly parochial public services, like police protection and rapid transit services.

The planning function still retains much of this independence of the service delivery of operating functions, and is located primarily in New York City's overhead structure. It may be that both have suffered in the process. Planning departments may have enjoyed only limited relevance, and service delivery agencies may have planned only poorly.

This suggests an important threshold issue for the reform of the planning function. The question is posed: *Should planning continue to be organized as an essentially overhead function, rather than devolved to the responsibility of operating agencies?*

CHARTER PROPOSITIONS

Charter propositions are organized to accord with the five threshold issues of planning reform for New York City. Each threshold issue, which itself has been analyzed in terms of its watershed alternatives, is therefore stated as a pair of essentially mutually-exclusive propositions. Thus, the threshold issue of independence vs. politicization is stated as a pair of propositions, one tending to enhance the independence of the planning function, the other tending to enhance its politicization.

Although each pair of Charter propositions is itself mutually-exclusive, the five threshold issues on which all Charter propositions have been based are themselves not mutually-exclusive. This is to say that they overlap. As a result, the complete selection of Charter propositions on basic planning reform will provide the underlying rationale for drafting the relevant sections of a new Charter for New York City.

Having selected the basic Charter propositions, there will still remain the difficult and often subtle questions of selecting appropriate implementation devices or instrumentalities. There will, of course, be a number of ways to implement desired reform, once the basic direction of reform is clear. Accordingly, each Charter proposition will be subsequently analyzed in terms of its appropriate implementation instrumentalities.

Independence vs. Politicization

This is, perhaps, the most basic of the threshold issues. The Thacher Commission may have placed greater emphasis on the independence of the comprehensive planning function, than on specific aspects of the planning function. This emphasis has continued to the present time, although it has been under

increasing attack. It is noteworthy that this attack has come not only from political sources and constituencies, but from professional planning circles as well.

- Independence: The Charter proposition favoring the independence of the planning function can be stated quite simply:

Should the planning function be independent?

Arguments favoring Independence

The arguments favoring the independence of the planning function can be summarized in the following manner:

Enhance deliberative review - Planning, like the judicial process, requires an environment both conducive to deliberation and sheltered from episodic, short-term political pressures.

Avoid constituency capture - Planning should be grounded on a broad base of all constituencies, and be accordingly free of capture by narrow constituencies or special interests.

Increase lateral access - Planning staff and commissioners should provide lateral access to organized and frequently rigid bureaucracies, which might otherwise resist reform or appropriate administrative flexibility.

Improve winnowing process - An essential planning function is to winnow or sift out relatively straightforward or non-political issues from those which are politically controversial, thereby not only reducing already crowded legislative calendars, but perhaps more importantly providing a non-political public forum to consider significant issues and legitimize non-political solutions.

- Politicization: The Charter proposition favoring the politicization of the planning function can also be stated quite simply:

Should the planning function be politicized?

Arguments favoring Politicization

The arguments favoring the politicization of the planning function can be summarized in the following manner:

Avoid duplicative review - Formal planning review, in the forum of the City Planning Commission, is merely duplicative of necessary and moreover appropriate political review by the Board of Estimate.

Improve political accountability - Too many functions of New York City's municipal government are already politically obfuscated by independent and apparently independent boards and commissions designed to rationalize the continued retention of a purposely non-political City Planning Commission as a forum for making important decisions, which ought rather to be subject to clear political accountability.

Decrease irrelevance - The relative isolation of the planning function from political processes tends to increase its irrelevance, a condition which if appropriate, is certainly not appropriate in a time of municipal management and fiscal crisis.

Increase professionalism - Insofar as the relative political isolation of the City Planning Commission suggests a schism between its intentionally professional processes and the intentionally political processes of the Board of Estimate, both suffer a distinction which is damaging, the result of which moreover is that political decisions are more likely to be made in isolation from professional technical analysis.

Mayoral vs. Legislative Locus

It should be clear that the locus of planning is another threshold issue. From its beginning, the City Planning Commission and the Department of City Planning, then directly under it, have been closer to the Mayor than the Board of Estimate. Over the years, the relationship of the Commission and Department to the Board has become more attenuated. This has occurred, most importantly, as a result of two reforms. One made the appointment and retention of the Commission's Chairman, who is also the Department's Director, subject to the Mayor's authority; the other abolished the position of Chief Engineer, and with it, the Board of Estimate's ex officio membership through this position on the City Planning Commission. Although most public administration professionals are now probably more committed than ever to retaining and even enhancing the traditional close relation between the planning function and

the Mayor, there is also a credible movement among such professionals to strengthen the ties between the planning and the legislative functions.

- Mayoral Locus: The Charter proposition favoring a mayoral locus for planning follows:

Should the planning function reflect a mayoral orientation?

Arguments favoring Mayoral Locus

The arguments favoring a mayoral locus for the planning function can be summarized in the following manner:

Improve coordination - Planning must be an executive-oriented function in order to enhance the coordination of service delivery for which the Mayor is operationally responsible, to permit effective planning by the Mayor to avoid future operational crises, and to increase the likelihood that future alternatives to present actions will be considered.

Serve broad constituency - Insofar as the Mayor represents a broader constituency than the Borough President members of the Board of Estimate, much less the district and at-large Councilmanic members of the City Council, a necessarily comprehensive function like planning should be oriented toward the Mayor.

Enhance strong Mayor - The demands of contemporary municipal management require a strong Mayor, which in turn requires that the planning function be so oriented.

- Legislative Locus: The Charter proposition favoring a legislative locus for planning follows:

Should the planning function reflect a legislative orientation?

Arguments favoring Legislative Locus

The arguments favoring a legislative locus for the planning function can be summarized in the following manner:

Improve legislative analysis - The technical and analytic capabilities of planning staff, now denied the Board of Estimate and City Council, tends to isolate both from access to professional staff support, and tends to reinforce the self-fulfilling prophecy that these legislative bodies will respond to political exigencies and pressures alone.

Diminish mayoral imbalance - Insofar as the "checks and balances" concept, basic to the American governmental structure, requires that the executive and legislative branches be in appropriate balance, the planning function should be oriented toward the Board of Estimate at least, so that the Board and perhaps the City Council as well can better fulfill their important deliberative functions.

Decrease parochial ombudsmanship - The relative isolation of the legislative branch, from the professional staff support now provided as part of the planning function organized under the Mayor, has tended to relegate both the Board of Estimate and City Council to the mere role of parochial ombudsmen attempting to provide lateral access to New York City's great, tenured bureaucracies.

Decentralization vs. Centralization

Representative government, at least in traditional terms, is presently under attack from a variety of sources. The reasons are numerous, but two perhaps stand out. One is based on the increasing problem of political accountability. Put another way, there is deep concern that the structure of municipal government has become so complex that its political representatives can no longer be held accountable. The other reason is that there is a widely-held feeling that municipal government, centrally organized, is not working well.

These two reasons provide much of the rationale, and certainly impetus, for making decentralization a threshold or watershed issue in New York City. There are, of course, degrees of decentralization, such that only some functions need be decentralized to satisfy the critique of New York City's existing central organization. This is especially true of the planning function, which could be either administratively or politically decentralized. By the same token, planning decentralization could take the form of advisory review by affected communities, "first-resort" review within an appellate process, or even final authority over some planning decisions.

- Decentralization: The Charter proposition favoring the decentralization of the planning function follows:

Should the planning function be decentralized?

Arguments favoring Decentralization

The arguments favoring a decentralized organizational orientation of the planning function can be summarized in the following manner:

Existing public imperative - Although the imperative of wide-spread public support for particular reforms may not always provide a rational basis for their political adoption, in this case New York City's established community planning mechanism, if not the existing Borough Improvement Boards and Boroughs or the existing Community Boards and Districts themselves, does provide an effective rationale for the decentralization of the planning function.

Increase sensitivity - Planning should be sensitive to community needs, especially in the context of a municipal structure which is centrally organized to deliver services.

Improve responsiveness - Just as planning should be especially sensitive to community needs, it should be especially responsive as well, so that planning can also become a more accountable function.

Enhance community participation - Planning, as a function traditionally removed from and even precedent to the crisis of the political process, is particularly appropriate for devolution to a decentralized structure in which real and constructive community participation can occur.

Avoid unnecessary central intervention - The calendar of the Board of Estimate and the schedules of the Mayor and his line Administrators are already so crowded and overcrowded with issues both large and small, that central intervention in the planning process should be limited to those aspects of the process which clearly require central management and which clearly sustain the test of city-wide significance.

- Centralization: The Charter proposition favoring the central organization of the planning function follows:

Should the planning function be centrally organized?

Arguments favoring Centralization

The arguments favoring a centrally organized planning function can be summarized in the following manner:

Maintain national status - The "imperial city" status early envisaged for and attained by New York has only been possible as a result of its strong central organizational emphasis on centralized planning and the delivery of services.

Protect minority points of view - A central planning perspective is essential, if New York City is to continue its

present established sensitivity to minority points of view.

Balance competing demands - The competing demands of communities, to both capture attractive capital facilities and avoid unattractive facilities, can only be balanced in the organizational context of the central planning function.

Coordinate planning and budgeting - It should be clear that the coordinator of the planning and budgeting functions can best be accomplished by their central organization.

Implement reform initiatives - There is a certain "critical mass" of expertise, financing, and perspective which is required to implement reform initiatives, and it is only a centrally organized planning function which can provide these essential ingredients.

Retain threshold uniformity - For New York City to function as a social and economic unit, there must be a threshold uniformity to ensure equitable, clear, and most importantly, consistent application of planning's development regulations.

Fragmentation vs. Consolidation

This fourth threshold issue of planning involves the existing apparent fragmentation of overlapping responsibilities. Thus, the City Planning Commission overlaps the Bureau of the Budget and the Board of Estimate, and in turn is overlapped by the Board of Standards and Appeals, the Site Selection Board, and the Bureau of Franchises. Some of this overlapping of functions is an

accident of the political process; some is intended to provide additional forums for the review of decisions. It is the genius of the American political system that it places so much emphasis on checks and balances; the cost, however, can be substantial in terms of administrative entanglement and delay.

- Fragmentation: The Charter proposition favoring the fragmentation of the planning function follows:

Should the planning function be fragmented?

Arguments favoring Fragmentation

The arguments favoring the fragmentation of the planning function can be summarized in the following manner:

Promote efficient division of labor - Although some overlapping of responsibilities may occur, it is nonetheless essential for the promotion of an efficient division of labor that different forums share aspects of the planning function.

Maintain checks and balances - Again, despite some duplication and overlapping of responsibilities, a certain fragmentation is essential to maintain appropriate checks and balances.

Represent particular points of view - Multiple forums ensure that particular points of view will be represented, such as those represented by the relatively focused Site Selection Board as distinct from the more diffuse City Planning Commission.

- Consolidation: The Charter proposition favoring the consolidation of the planning function follows:

Should the planning function be consolidated?

Arguments favoring Consolidation

The arguments favoring the consolidation of the planning function can be summarized in the following manner:

Enhance decentralization - Insofar as there is an imperative to decentralize the planning function, consolidation of planning forums would be responsive to this imperative, just as the retention of overlapping central forums would not be responsive, but would instead render inordinately complex the delegation of particular responsibilities to the borough or community levels.

Reduce complexities - Rather than promoting an efficient division of labor, the existing overlapping of planning functions merely complicates and delays a process which should be a model of organizational rationality.

Limit forum shopping - The existence of overlapping planning responsibilities encourages forum shopping, which among other things is inequitable, particularly in regard to unsophisticated applicants who must choose between such apparently overlapping forums as the City Planning Commission and the Board of Standards and Appeals.

Decrease legislative rigidity - The fact that the Zoning Resolution can be effectively amended, at least on an ad hoc basis by the granting of variances, makes it less likely the Resolution will in fact be amended, particularly insofar as upholding its integrity is the responsibility of a body wholly separate from the body which grants variances from it.

Overhead vs. Operating Agency Orientation

Planning has been traditionally an overhead function, as have the budgeting function conducted by the Bureau of the Budget and the legal function conducted by the Corporation Counsel, for example. The rationale for this organizational locus was that planning required a location independent of line functions. This rationale was particularly persuasive in the era of municipal line fragmentation, during which the organizational structure of cities was typically characterized by numerous narrowly-defined line agencies. Such line agencies were unlikely to be concerned with the broad issues of planning, much less with the broader issue still of inter-agency coordination and cooperation.

This was, of course, no less true for New York City as well; however, since the creation of the present super-structure of broadly conceived line administrations, the rationale for a planning function basically outside the line administration super-structure may have been weakened. Thus, such super-agencies may have a sufficiently comprehensive mission to warrant lodging planning in a much closer relationship to the line function.

- Overhead Orientation: The Charter proposition favoring the conduct of planning as an overhead function follows:

Should the planning function be primarily organized within the municipal overhead structure?

Arguments favoring Overhead Orientation

The arguments favoring an overhead orientation for the planning function can be summarized in the following manner:

Reduce parochial viewpoints - Planning requires an overhead organizational environment, lest it become pre-occupied with the kind of parochial concerns and viewpoints which tend to dominate the workaday crisis of managing a line agency delivering services.

Avoid narrow advocacy - By the same token, planning should be primarily located in the municipal overhead structure so that it can avoid capture by line agencies which would be likely to assign a narrow advocacy purpose to the planning function.

Encourage innovative reforms - Planning's traditional independence in the municipal overhead structure makes it peculiarly able to consider, evaluate, and encourage the implementation of innovative reforms in the delivery of services which the responsible line agencies might be reluctant to consider, unable to consider for want of independent-minded internal staff expertise, or merely precluded from considering because of the workaday crisis of delivering services.

Enhance coordination and comprehensive planning - Only a planning function primarily located in the municipal overhead

structure can fully perform its basic mission of coordination and comprehensive planning, and thereby reduce duplication and conflict between line agencies.

Maintain staff quality - Planning staff internal to the line agencies tends to be isolated from the main processes of administrative management, two results of which are that such staff frequently tends to be demoralized and may also be characterized by low quality, thereby increasing the importance of the traditionally high-quality central planning staff located in the municipal overhead structure.

- Operating Agency Orientation: The Charter proposition favoring the conduct of planning as an operating agency function follows:

Should the planning function be primarily organized within the municipal operating agency structure?

Arguments favoring Operating Agency Orientation

The arguments favoring an operating agency orientation for the planning function can be summarized in the following manner:

Decrease planning's isolation - Planning organized in the municipal overhead structure tends to be isolated from the tough management decisions of line agencies, and is accordingly less relevant than it needs to be.

Enhance implementation follow-through - Were the planning function organizationally more closely related to the line agencies, there would be greater likelihood that planning

would be not only general, but detailed as well, the result of which would be a greater likelihood of implementation follow-through.

Increase reform initiatives - If planning is to be fully effective in performing its innovational function, it must be organizationally close to the line agencies ultimately responsible for implementing reform initiatives.

Avoid meddling - So long as planning is located in the municipal overhead structure, its reform initiatives will be resisted as meddling by the affected line bureaucracies.

Reflect recent organizational reforms - The recent creation of New York City's super-agencies permits its new line administrations to encompass missions, the scopes of which are sufficiently broad to sustain and conduct the comprehensive planning function, thereby diminishing the rationale for planning's present location in the municipal overhead structure.

Reduce capital improvements emphasis - Although the traditional emphasis of planning on capital improvements suggested its initial location in the municipal overhead structure, the increasing importance of the Expense Budget suggests that planning be more closely allied to the line agencies responsible for both capital and operating expenditures.

CHARTER PROPOSITION INSTRUMENTALITIES

The five threshold issues of planning reform have elicited an equal number of paired Charter propositions. Thus, the threshold issue of independence vs. politicization elicits a pair of Charter propositions, one of which favors independence (*Should the planning function be independent?*), the other of which favors politicization (*Should the planning function be politicized?*). Each of these Charter propositions can be implemented by a variety of different devices or instrumentalities, which themselves suggest different degrees of reform. Thus, these instrumentalities can range from relatively limited reform to extensive reform. There is, of course, always the option of retaining existing instrumentalities; although these instrumentalities are not briefed in the following analysis, this option is an important one and should be considered carefully.

Independence vs. Politicization

- Instrumentalities favoring Independence: Any of a variety of Charter proposition instrumentalities could assist planning's independence.

These are the most relevant:

Mayor Selects Chairman for Fixed Term

One way to increase the independence of the City Planning Commission would be to have the Mayor appoint the Chairman for a fixed term, removable only for cause. This would constitute a return to the 1938 Charter. Such a reform would unquestionably strengthen the "judicial/regulatory nature" of the Commission, a potentially positive development with respect to decision-making responsibilities in the

highly sensitive area of zoning. This approach, however, could also severely cripple the planning authority and responsibilities of the Mayor, as these are presently conducted by the Department of City Planning and its Director as an integral part of the Executive Branch. It risks the likelihood that an aggressive Mayor would have no choice but to devise alternative means, under his control, to engage in planning activities. The consequence could be a remote and even powerless Department under the semi-autonomous Chairman. On the other hand, a strong Chairman with broad planning and development authority might inevitably clash with the Mayor over program policy, leading to confusion and divided accountability.

Commission Selects Chairman and Director

Not uncommonly, city planning commissions select both their chairman and director. This is not the case in New York City. The adoption, however, of this reform instrumentality would very substantially enhance the independence of not only the City Planning Commission, but the Department of City Planning as well. It would mean, additionally, that the Department was no longer a mayoral agency, and conversely that it would henceforth be a Department responsible to the whole Commission.

Commission Decides Certain Issues as "Last-Resort" Forum

The City Planning Commission could be granted final authority over certain decisions which are now subject to political review by the Board of Estimate. In effect, the Commission would

become a municipal forum of last-resort; at present, the Board of Estimate is the municipal forum of last-resort relative to the Commission and its authority over the Zoning Resolution, for example. An obvious existing precedent for granting the City Planning Commission final review authority over select planning functions lies in the precedent of the Board of Standards and Appeals. Thus, the Board's authority to grant variances is not subject to political review by the Board of Estimate or City Council. As a result, appeal must be lodged directly with the courts.

Granting similar final review authority to the City Planning Commission over select planning functions would substantially enhance its independence. It should be noted that the City Planning Commission's final review authority over the Capital Improvement Plan does not satisfy this objective, since the Plan is a mere draft, without the force to bind future capital expenditures.

Staff for Commissioners

Members of the Commission are supposed to bring objective and educated judgment to planning decisions. In reality, however, they are prevented from doing so in many cases because of their part-time status and inadequate staff resources. In brief, the Chairman dominates the Commission, largely because he has full access to the professional staff capability of the Department of City Planning. Unquestionably, the deliberative process of the

Commission, and thereby its independent judgment as a body, would be strengthened by increased staff support. This approach, however, risks the dual likelihood that a separate planning bureaucracy would be established and that this second bureaucracy would be viewed as a hostile "Fifth Column" by the main and inevitably larger staff of the Department of City Planning. There is, of course, also the likelihood of potential duplication and adverse interference by a duplicate Commission staff.

- Instrumentalities favoring Politicization: Any of a variety of Charter proposition instrumentalities could also assist planning's politicization. These are the most important:

Commission Members Subject to Board of Estimate Approval

Making the appointment of City Planning Commission members subject to Board of Estimate approval would have the effect of slightly politicizing its membership as the Mayor would still initiate the appointments. The precedent for this arrangement is well-known; For example, Federal judicial- and Cabinet-level appointments are subject to confirmation by the U.S. Senate. Public confirmation hearings covering City Planning Commission members-designate would help to "open" an appointment process which has been relatively "closed" until now. As such, the City Planning Commission might become more politically accountable than is now the case. Confirmation by the Board of Estimate would also have the effect of making the City Planning Commission more sensitive to Borough-wide constituencies.

Put another way, Board confirmation of Commission members would have the effect of strengthening the Boroughs as the basic geographic components of New York City, at the expense of the Commission's present city-wide orientation. As a result, not only would the Commission become more politically accountable, but its orientation would be decentralized as well. It seems likely, in fact, that Commission members would henceforth, under this arrangement, be drawn from all five Boroughs.

Commission Members Subject to City Council Approval

The effect of this arrangement, as distinct from the one involving Board of Estimate approval, would be to still further decentralize the City Planning Commission. Thus, insofar as the City Council itself is more sensitive than the Board of Estimate to decentralized district or community interests, its "advice and consent" on Commission appointments would encourage sensitivity on the part of the City Planning Commission to district or community points of view. The City Council's public hearing process, precedent to confirmation, would probably also elicit different concerns of a more decentralized nature than would such hearings by the Board of Estimate.

Abolish Commission and Appoint Zoning Administrator

There is considerable sentiment for abolishing the City Planning Commission and establishing in its place a Zoning Administrator appointed by the Mayor. There are several rationales for this arrangement. One is that political accountability would be

served, by taking the next step as well, in making the Board of Estimate the planning forum of sole resort. This would mean that the decisions of the Zoning Administrator would be subject to review by the Board of Estimate.

A second rationale for this arrangement is that it would tend to professionalize the zoning function, leaving lay review to the avowedly-political Board of Estimate. Political accountability would be enhanced, by reason of the fact that it would obviously occur in the Board. By contrast, there is a widely-held suspicion that the City Planning Commission is political, and accordingly tends to obfuscate political accountability between the two forums.

Thirdly, the appointment of a Zoning Administrator in place of the City Planning Commission would probably tend to unify planning as a city-wide function. This could still allow for a great deal of sensitivity by the Zoning Administrator to community points of view. While zoning decentralization might be diminished by the appointment of a Zoning Administrator, this would depend on the internal workings of the office. The Board of Standards and Appeals has, for example, progressively decentralized its notification and community participation procedures, and a Zoning Administrator could decentralize his as well.

Abolish Commission and Appoint Zoning Board

This instrumentality for planning reform is supported by much the same rationale as that supporting the appointment of a Zoning

Administrator, with some important additions. Thus, a Zoning Board appointed by the Mayor could be constituted and tenured along the lines of the Board of Standards and Appeals, with professionals reflecting different, albeit complementary, disciplines. This would serve the additional purpose of broadening the zoning function to include other aspects of planning.

The members of this Board could also be drawn from the five Boroughs, thereby encouraging a sensitivity to decentralized concerns. Such a Board, so constituted, could further diminish the rationale for the separate variance-granting function now performed by the Board of Standards and Appeals. In any case, the appointment of such a Board would tend to politicize the zoning function, and thereby enhance its political accountability.

Board of Estimate Appoints Commission and Planning Director

The Board of Estimate could appoint both the City Planning Commission and the Director of the Department of City Planning. The effect of this reform would be to more closely ally the Commission and the Board. Insofar as the Board might continue to review the Commission's planning decisions, this would serve to enhance the Commission's role in screening issues for the Board, and at the same time diminish the likelihood of Board override.

This arrangement could serve the rationale of making the Commission a forum of last resort with final decisional authority over

planning matters. In the process, delay and duplication would be reduced and accountability enhanced. This arrangement would also tend to decentralize the Commission's membership and make it and the Department of City Planning more sensitive to both city-wide and decentralized or community concerns, since the Board includes both city-wide and Borough representatives. In addition, it could provide the whole Board with a professional staff it now lacks, and might help to professionalize the Board's decision-making process. This instrumentality would, of course, reduce the Mayor's ability to use planning as an aid to coordinating the City's agencies, thereby further separating overhead planning from agency operations.

Abolish Commission and Reconstitute Function in Board of Estimate

This reform instrumentality would substantially politicize the planning function. It would avoid the present duplication inherent to the existing arrangement on zoning and budgeting, for example, between the City Planning Commission and Board of Estimate. Whether delay would also be reduced depends on the dispatch with which the Board handles its calendar. The appointment of a Zoning Administrator, as a companion reform, could help ensure the speedy disposition of zoning decisions. In any case, political accountability would be enhanced, with both city-wide and Borough concerns represented. It might, however, merely result in unrestrained pressure on the Zoning Resolution from land speculators.

City Council Appoints Commission and Planning Director

This arrangement is similar to the one under which the Board of Estimate would appoint both the City Planning Commission and the Director of the Department of City Planning. The rationale is also much the same, except that a Commission and Planning Director so appointed would probably be more concerned with community sensitivities than would be the case were the appointments made by the Board of Estimate. Under this arrangement, however, the Mayor would be denied access to the Department of City Planning since it would become a Councilmanic agency; under the Board of Estimate arrangement, the Mayor as a member of the Board would still have had this access.

Elect Commission Members

This reform instrumentality involves the direct election of Commission members, with the Planning Director appointed by the Commission as a whole. While this arrangement could merely add another elective forum to New York City's already complex elective and appointive structure, it does have the advantage of enhancing political accountability. Additional political review of planning decisions by the Board of Estimate would be rendered unnecessary under this arrangement. Decentralization could also be served by having Commission members elected from each of the five Boroughs, although this risks the likelihood that Commission members will extend reciprocal courtesy privileges to each other on issues affecting any single Borough.

Mayoral vs. Legislative Locus

- Instrumentalities favoring Mayoral Orientation: Any of a variety of Charter proposition instrumentalities could favor a mayoral orientation for planning. These are the most important:

Mayor Selects Chairman for Fixed Term

This reform instrumentality has been briefed as an instrumentality also favoring planning's independence (page 99).

Mayor Appoints Deputy Mayor for Planning and Budgeting

This reform instrumentality envisages the merger of the Department of City Planning and the Bureau of the Budget as a mayoral overhead agency under a Deputy Mayor for Planning and Budgeting. There are many things to recommend this management. First, it would enhance the significance of both planning and budgeting by elevating it in closer relationship to the Mayor, although the same purpose could be very nearly served by appointing a Director over a merged City Planning Department and Budget Bureau. Second, but of perhaps greater importance, it would completely integrate the planning and budgeting functions, lending fiscal attention and credibility to planning, on the one hand, and land use attention and credibility to budgeting, on the other. In addition, some of the duplication and delay would be reduced by having the Department of City Planning prepare a draft Capital Budget which is subject to revision by both the Budget Bureau and the Board of Estimate in joint action with the City Council. Accordingly,

the Mayor's hand over the planning function, including the coordination function, would be strengthened.

- Instrumentalities favoring Legislative Orientation: Any of a variety of Charter proposition instrumentalities could favor a legislative orientation for planning. These are the most important:

Commission Members Subject to Board of Estimate Approval

This reform instrumentality has been briefed as an instrumentality also favoring planning's politicization (page 102).

Commission Members Subject to City Council Approval

This reform instrumentality has been briefed as an instrumentality also favoring planning's politicization (page 103).

Board of Estimate Appoints Commission and Planning Director

This reform instrumentality has been briefed as an instrumentality also favoring planning's politicization (page 105).

Abolish Commission and Reconstitute Function in Board of Estimate

This reform instrumentality has been briefed as an instrumentality also favoring planning's politicization (page 106).

City Council Appoints Commission and Planning Director

This reform instrumentality has been briefed as an instrumentality also favoring planning's politicization (page 107).

Decentralization vs. Centralization

- Instrumentalities favoring Decentralization: Any of a variety of Charter proposition instrumentalities could assist planning's decentralization.

These instrumentalities can, however, be categorized and examined in terms of three basic concerns. The first deals with the amenability to decentralization of different planning functions. The second deals with the extent of this decentralization; thus, it deals with the choice between administrative or political decentralization, and whether this decentralization should take an advisory, shared, or split form of delegation. The third concern deals with the locus of decentralization, and accordingly examines three basic loci: the Borough, the Councilmanic District or a similar geographic definition, and the Community District; this last locus, the Community District, is also analyzed in terms of the choice between elected or appointed Community Boards.

Decentralization of Planning Functions

The following planning functions are analyzed for their amenability to decentralization:

Capital Budgeting and Programming - This planning function is almost surely the one most frequently under attack from a variety of sources on a variety of scores. These include the perception, if not the fact, that the communities lack access to information on proposed or approved projects, that they are in any case often subjected to misleading information, that they are not adequately consulted during the project planning stage, and that there are unnecessary and unaccountable delays in project certification as well as line agency initiation and construction.

In addition, the critique is levelled at the capital budgeting process that it is too cumbersome, that it suffers from too many overlapping responsibilities, that it lacks integration with the Expense Budget, that it lacks a mechanism to expedite construction, that it is too politicized, and that it is accordingly deceptive as a blueprint of which projects will actually be initiated. Thus, with more than one budget authority actively involved in the adoption of the Capital Budget, a great many projects are inevitably included by each such authority as a way of satisfying themselves and their various special constituencies. This satisfaction is all the easier for the fact that little is actually appropriated in the early stages of capital facility planning and development.

As a result, ready additions to the Capital Budget can be made to appease a political constituency in the knowledge that this can be accomplished with very little cost.

It is noteworthy that most projects added in this manner tend to remain in the current Capital Budget year after year, without ever progressing beyond the early site selection and planning stages. The City Planning Commission, Borough Presidents, City Council, and the Mayor each contribute some of these projects included largely cosmetic political reasons, although the Borough Presidents and City Council contribute most of the projects.

To some degree, the cosmetic quality of the Capital Budget is duplicated in the draft Capital Improvement Plan as well; however, due to the fact that it lacks even an apparent force of law, it is less subject to pressures designed to include long-term capital projects in the current five-year draft Capital Improvement Plan. This raises a central question. Thus, if the annual Capital Budget is an unreliable indicator of municipal capital expenditures for the current fiscal year, it seems hardly likely that extending the same force of law to the five-year Capital Improvement Plan would accomplish the purpose of enhancing political accountability and municipal fiscal certainty.

In point of fact, it might accomplish just the opposite, by providing yet another even less certain document to be used for including politically-motivated, cosmetic capital projects. This in no way need suggest that the capital programming process should not be conducted at all, but rather that it should remain a process without attempting to legitimize it by requiring Board of Estimate and City Council adoption. It may be that the City Planning Commission should not even issue the Capital Improvement Plan as a mere draft, since this suggests a municipal commitment which may be not only lacking, but misleading as well.

Assuming, however, a reliable capital budgeting process, it does appear that the process could be readily decentralized,

although not without the loss of central control, of course. In fact, the very geographic orientation of the capital budgeting process lends itself well to decentralization. Thus, communities could establish priorities for capital projects which can be clearly classified as "local." By the same token, project scopes could be submitted to communities for review. Communities might even be granted the authority to initiate or supervise the design of projects. In addition, there is always the more radical departure of adopting a general or special revenue-sharing approach with regard to the Boroughs, Councilmanic Districts, or Community Districts. Any of these capital budgeting reforms could, of course, increase the likelihood that city-wide interests would be jeopardized, that unpopular projects would be subject to parochial interests, that inter-district conflicts would be encouraged, and that professional planning judgments with regard to timing and site selection might be disregarded.

Many of these considerations turn on the size of capital projects, the degree to which they will serve more than a single district, and their innate attractiveness or lack thereof. It is apparent, in any case, that the existing community mechanisms of the Borough President's Office or the Community Board could be employed to perform appropriate parts of a decentralized capital budgeting process.

Comprehensive Planning - Although the capital budgeting and programming process is perhaps the most important of planning's several functions, the comprehensive planning process is probably the one for which it is best known. After all, the basic mandate of the City Planning Commission was to prepare a Master Plan for New York City.

The fact is, however, that 35 years after the creation of the City Planning Commission, it has yet to adopt a Master Plan. Moreover, it seems unlikely that the 1970 effort by the Commission to issue a comprehensive plan for New York City, an effort recently abandoned, will be repeated in the foreseeable future. This suggests that comprehensive planning conducted from the central perspective of the Master Plan concept is no longer a viable option, and that therefore the adoption function mandated by the Charter for the Commission is no longer viable as well.

Accordingly, it seems likely that the comprehensive planning function could be largely decentralized, perhaps most effectively to the existing Borough Planning Offices. Central planning staff could continue to perform certain support functions, such as data collection and processing, while the bulk of planning staff was located in Borough Planning Offices. In any case, the comprehensive planning function -- as it seems likely to be practiced in the

future -- could be conducted simultaneously at the city-wide, borough, and community levels. This would still require reconciling differences and conflicts of comprehensive planning conducted at multiple levels. A more difficult problem, however, turns on the increased possibility that the separation of comprehensive planning and fiscal authority could generate unrealistic plans and unresolved expectations.

Development Regulation - The Zoning Resolution is, in fact, probably the most important instrument of authority for the City Planning Commission. It is presently administered in a way which places heavy emphasis on the Borough Planning Offices for field investigation purposes. Additional decentralization could occur, by distinguishing between amendments and variances on the one hand, and the text and Map on the other; thus, responsibility for both variances and the Map could be devolved to decentralized authority with little cost or loss of important city-wide perspective in many instances.

An important exception, however, is the jeopardy in which city-wide plans for low-cost housing would be placed. This jeopardy is, however, almost endemic to decentralization. Although the unresponsiveness of suburban planning boards hardly suggests that community boards in New York City would act any less selfishly, a real delegation of

planning responsibility might encourage new programmatic departures for solving social problems. As a result, planning might be improved and community boards might act more responsibly.

In any case, each Borough Planning Office could include a Zoning Administrator. By the same token, the Borough Improvement Boards, Community Boards, or some combination of city-wide, borough, and community representatives could serve the function of decentralized planning or zoning boards. Under such an arrangement, the text of the Zoning Resolution would still provide a threshold of uniform development requirements and criteria for all New York City.

Public Facility Location and Project Initiation - Two procedures now fix the location of most capital projects. The first is selection by the Site Selection Board, subject to approval by the Mayor; the second is the amendment of the City Map by the City Planning Commission and the Board of Estimate. The former tends to be more sensitive to decentralized concerns than the latter, although the important role of city-wide officers in both ensure a strong central perspective.

This central perspective could be delegated to permit still greater sensitivity to community concerns. There is a strong likelihood, however, that such decentralization could be

divisive within and between communities, unless care were taken to institute orderly procedures for more centralized review. Thus, the membership of the Site Selection Board could be revised to include more localized community representation than is now the case.

City Mapping - At present, City Map changes to open or close streets are usually prepared by the Borough Presidents' Topographical Bureaus. In the case of public parks, however, changes are initiated by the Parks, Recreation, and Cultural Affairs Administration. These changes are generally initiated by the Borough President, referred to the City Planning Commission for action, and then referred to the Board of Estimate. Mapping, it should be noted, does not always ensure that public acquisition or development will actually take place. Sometimes a project on a City Map is initiated immediately; sometimes not at all.

Street map changes can raise substantial issues. Traffic circulation in a wide area may be affected, as well as a homeowner's access to his property. In the absence of a classification system designating local, regional, and arterial streets, it might be difficult to lodge final authority for street mapping at the community level.

Nonetheless, decentralization could make the City Map amendment process more open and reliable at one and the same time, especially at the initial review level. There

are certainly now enough safeguards in the review process to permit and indeed encourage a strong community participation element. This would have the effect of coalescing a constituency for the City Map change, and thereby ensure both early site selection sensitivity and subsequent acquisition or development follow-through.

Housing Policy - This is a particularly sensitive planning function, involving as it does very basic civil rights issues. Moreover, it is particularly diffuse, by reason of the fact that so many city agencies and forums share seemingly overlapping responsibilities for the definition, planning, management, and implementation of housing policy. The Housing and Development Administration and its constituent departments (Buildings, Rent and Housing Maintenance, Development, and Relocation and Management Services) administer zoning, building, housing and rent regulations, and a wide variety of assistance programs for housing and community development.

In addition, the City Planning Commission, Department of City Planning, Bureau of the Budget, Model Cities Administration, Rent Guidelines Board, Conciliation and Appeals Board, Board of Standards and Appeals, and the City Housing Authority all share responsibility for parts of New York City's housing policy. In addition still, both State and Federal agencies, as well as private entities, take a direct

intense interest in municipal housing policy. Finally, State law requires approval by the City Planning Commission and the Board of Estimate of public and publicly-aided housing projects. This very complexity suggests that decentralizing housing policy formulation, without a complete reorganization of the responsibility for its formulation and implementation, offers little promise.

Urban Renewal - Federally-funded urban renewal activities appear destined to come to a halt in the not too distant future; however, it may be that urban renewal activities without Federal aid will continue, although even this form of renewal activity appears destined for basic reform. In any case, under State law, an urban renewal plan must be approved by both the City Planning Commission and Board of Estimate, subject to a required public hearing. The Housing and Development Administration may, however, still continue to withhold building permits at its discretion for a period of up to three years, even though an urban renewal plan has been approved by both the Commission and Board of Estimate.

One obstacle to decentralization is the need for central government to allocate scarce funds; however, New York City has established citizen urban renewal advisory boards in conjunction with urban renewal projects. These boards have generally worked well with the City, eliminating much of the

controversy once associated with the renewal process.

After resource allocation decisions have been made, it may be possible to enlarge upon the power of local renewal boards.

Extent of Decentralization

The following types of decentralization are analyzed:

Administrative Decentralization - The administrative decentralization model can take a number of forms, but all share in common the basic management principle that central authority is retained, and that only degrees of responsibility are delegated outward from the center to communities or districts. This is no less true in the private sector than in the public. In effect, the administrative decentralization model places emphasis on the "listening" and/or rote management function of local staff, rather than on the independent decisional function. Typically, particularly in the public sector, a "pecking order" has been established which denigrates local administrative staff to a low position on the decisional ladder. As a result, local staff tends to be appropriately timid; initiative and innovation risk punishment, and are therefore seldom practiced.

Nonetheless, in practice the model can work in very different ways. Accordingly, it is simplistic to ascribe any single working arrangement to it. Local or district staff can have, by design or in spite of it, a great deal of power and show

a great deal of initiative. In point of fact, they can even have little power and yet show initiative, or much power and show little initiative. In short, all combinations are possible and have occurred. It is not uncommon, particularly in community organization work, for local staff having only limited formal power to exhibit considerable independence of the central management function. The result is typically chaotic, although it may be responsive to local sentiment. But the fact remains that what is happening is not in accord with what was intended. While this may have a favorable effect, it seems apparent that an administrative structure which serves its purpose makes for a better process than one which resists it.

In the final analysis, however, all administrative decentralization models share the single principle of central review, of either individual decisions or individual staff, in common. Structural arrangements which formalize the review of decisions, rather than staff, tend to foster a weak decentralization process. By the same token, those which formalize the review of staff, rather than decisions, foster strong decentralization. In reality, of course, not all decisions or staff warrant equal review under either arrangement. All may be subject to review, and even forwarded for review, but unequal attention is typically accorded despite the central responsibility for equal review.

Political Decentralization - The political decentralization model can take a number of forms as well. Nonetheless, all have in common the equally basic management principle that not only responsibility, but also authority for certain functions is devolved outward from the center. This means that such functions are decided outside the central management system. Almost inevitably, real political decentralization involves community officials whose accountability is local as well.

The challenge of political decentralization is to enhance accountability; too often, it has confused it. This has been long apparent in the traditional Federal-local model of the last several decades, particularly in the operation of such Federal agencies as the Office of Economic Opportunity. Thus, a major problem of that structural arrangement has lain in the difficulty of tracing lines of authority between the governors of services and the recipients of services.

While there is a strong rationale for such an arrangement, particularly in situations in which local government is itself democratically unaccountable, the result has been to proliferate mini-governments characterized by narrow foci and confused lines of accountability. In addition, this arrangement tends to permit the retention of unaccountable governments, so long as they can be ignored by the continuation of external support for mini-governments. This can mean that regression

to the tradition of unaccountable government will almost surely occur, once external support comes to a halt. This has been one result of diminished Federal support for the Office of Economic Opportunity.

As with the administrative decentralization model, political authority can be either split or shared. Both, however, can provide substantial accountability. The distinction turns on the review function. Thus, under the split-authority arrangement, particular issues are subject to the local political decisional process, and accountability is focused locally; under the shared-authority arrangement, issues can be subject to central review in accord with a political, administrative, or judicial process.

For example, the City Planning Commission recently proposed that a number of planning districts be established, each of which would be supervised by a local planning administrator responsible for a full planning staff located in the district itself. The local staff would review all proposed changes in the zoning map, zoning variances, special permits, and housing development and renewal plans affecting the district. Only zoning text amendments would remain the sole function of the City Planning Commission, as distinct from map changes.

Locally-reviewed items would be heard in the district by a four-member panel. This panel would consist of the local

planning administrator, who would be responsible to the Chairman of the City Planning Commission as Director of the Department of City Planning, a member of the City Planning Commission, a representative of the Borough President, and the Chairman of the affected local Community Board.

Unanimity of panel members, with regard to any single item, would be sufficient to dispose of the item for administrative purposes then and there. Put another way, given unanimity, no further review by either the City Planning Commission or Board of Estimate would be required or even permitted for that matter.

A majority decision of the panel would, however, be subject to appellate review by the City Planning Commission on an *optional* basis. After having been reviewed by the full Commission, it would also be subject to review by the Board of Estimate, assuming favorable action by the Commission.

In instances of an evenly split vote, the City Planning Commission would retain *automatic* appellate review responsibility. The Board of Estimate would also review such decisions, assuming favorable action by the Commission.

The local planning administrative panel would also assume initial jurisdiction over variances and special permits, now the review function of the Board of Standards and Appeals. Appeal from the panel's decision to the Board

itself could still occur as a matter of right, regardless of unanimity; however, no additional testimony would be taken by the Board of Standards and Appeals so that the hearing before the local administrative panel would serve as a matter of record upon which judgment would be based.

This proposal encompasses a number of attractive aspects, the most important of which is that it would politically legitimize decentralized district panels. In this respect, the proposal would provide a rationale for a structurally-organized community decisional process which goes beyond the present advisory function of the existing Community Boards. It would also expedite the decisional process with regard to non-controversial items.

This, however, may be its weakness as well. Thus, the distinction is drawn on the basis of controversy, rather than extra-territoriality. Purely local issues, albeit controversial ones, would be inevitably subject to review by the City Planning Commission, without regard to whether the issue contains any element of city-wide impact or even extra-territorial impact beyond the affected district. The result could be to encourage Commission review, by "pushing" decisions upward from the local administrative panel to the City Planning Commission itself. A concomitant result could be to discourage responsibility on the part of the local panels, given the expectation that central review will inevitably be forthcoming.

The distinction between the Commission's proposed planning review process and the existing appellate review process in the court system is noteworthy. The court review process is essentially based on a marketplace notion that the right of appeal is the right of an appellant, rather than the right or duty of the appellate body. As a result, lower courts tend to exhibit considerable responsibility in their decisional process, lest a dissatisfied party become an appellant and thereby subject a lower court to review and the possibility of reversal. The Commission's proposal does not appear to similarly encourage "first resort" responsibility by local planning administrative panels.

This deficiency may be further exacerbated by the proposed identities of panel members. It can reasonably be expected, under the Commission's proposal, that the local planning administrator and the Commission's "circuit-riding" Commissioner will ordinarily vote as a block. For this reason alone, the City Planning Commission will be able to retain effective control of the decisions of the local administrative panels.

In addition, only the local planning administrator and the Commissioner will have the certainty of access to technical data considered necessary to make a rational planning decision. As such, it could be that their votes will be

the votes of "first among equals," and certainly the only votes backed by technical judgment. This could further discourage a responsible decisional process, particularly on the part of the Borough President representative and Community Board Chairman members of the panel. As a result, the effective exercise of their vote could become a function of their ability to irresponsibly manipulate community sentiment, in the expectation that the local planning administrator and Commission members of the panel would be loathe to test public opinion.

This result could further confuse, rather than clarify, lines of accountability, and could additionally give further credibility to the seeming distinction between a professional or technical decisional process, on the one hand, and a political decisional process, on the other. Surely it would be better to diminish the rationale for characterizing the former as *responsible*, and rewarding it accordingly; by the same token, it would be no less well to diminish the rationale for characterizing the latter as *irresponsible*. It seems axiomatic that the political process should not be isolated from the technical decisional process, an isolation which appears too frequently endemic to the traditional structural schism between the executive and legislative branch. In any case, the structure of the panel proposed by the City Planning Commission appears to risk such isolation.

Nonetheless, the City Planning Commission's proposal would accomplish much toward politically decentralizing the planning function. Moreover, its deficiencies could be substantially met by merely changing the composition of the panel to give more weight to the borough or district point of view. Thus, the City Planning Commission would be placed in much the same relation to the district panel as the Board of Estimate is now to it.

The point remains that political decentralization enhances local accountability in the selection of district officials and staff, and in turn enhances the likelihood that their decisions will be locally responsive as well. Such decisions may, of course, be parochial and unresponsive to geographically larger or more future-oriented considerations. As a result, the costs of such decisions can be transferred or "externalized" to other jurisdictions. In practice, these jurisdictions are typically those least able to bear these special costs. The suburbanization of metropolitan areas is a case in point. A premium is placed on political responsiveness, at a cost to the politically weak. In this sense, the central issue of decentralization is that it should enhance parochial responsiveness, and may thereby ignore issues and problems which have their origins in geographic areas in other jurisdictions. This is the problem of center cities in the midst of affluent suburbs. It is still more the problem of local districts within center cities, insofar

as particular districts may not share fully or fairly in the resources of the city at large.

Advisory Decentralization - In a sense, decentralization based on advisory community review is a contradiction in terms. After all, the advisory review function lacks the formal force of law and should have little effect on the decisional process. The fact is, of course, that such advisory review can greatly effect the real decisional process. Thus, an organized constituency with only advisory review authority can attain virtual control over a decisional process. Witness, for example, the role of bar associations typically in reviewing the appointment of judges. An organized community constituency can have a similar impact on a central decisional process over which it does not have even formal advisory authority. In fact, this now happens with some frequency in New York City.

One step to enhance the community advisory review of central planning decisions would be to require community notice or improvements in existing community notice procedures.

Beyond this minimal step, a community public hearing or hearings could be required as well. Both of these steps risk some additional delay and cost. Otherwise, there is little to deny their recommendation and adoption.

A more significant step would require that community hearings be held by decentralized boards organized at the Borough,

Councilmanic District, or Community District levels, with the additional requirement that the effected decentralized boards report advisory recommendations to the appropriate central forum. Such advisory recommendations could cover district development plans, district capital budgets, and/or petitions for zoning changes. Provision could be made to assign planning staff or allocate funds for planning assistance to each of the decentralized boards to help ensure the professional conduct of public hearings and the professional preparation of recommendations. The obvious disadvantages of this arrangement are again based on considerations of delay and cost. There is, however, the additional risk that despite the advisory nature of a formal community recommendation, it would effectively impose a parochial viewpoint on a decision which warrants a broader perspective.

Loci of Decentralization

The following loci of decentralization are analyzed:

Borough Locus - While New York City is governed under what is basically a centralized or "single tier" system, nonetheless the Boroughs have been a traditional at least partial "other tier." The Boroughs were, of course, once the sole tier, but have been progressively relegated to secondary and reduced status over the years. Although there are important exceptions, most New Yorkers probably identify themselves in terms of the Borough in which they live,

rather than in terms of either New York City as a whole or its numerous communities. In addition, the City is politically organized by Boroughs and fully three of New York City's five Boroughs are geographically separate from each other, and fail to share any land boundary in common.

All this might suggest that a decentralized planning function should be organized on a Borough basis. This has the added advantage of avoiding an organizational locus which is likely to reflect only a very limited viewpoint. The major disadvantage, however, of such a Borough locus is that it would be inadequate to the task of ensuring real community participation in all the Boroughs, with the possible exception of Richmond. In addition, of course, the five Boroughs are of very different size, with Brooklyn almost ten times the size of Richmond. Thus, effective decentralization might better be based on an area which can clearly be identified as a reasonably cohesive community. Even Staten Island as a whole does not meet this criterion. Nonetheless, the Borough remains an attractive and ready option around which to organize planning decentralization. The existing structure of the Borough Improvement Boards may be employed as a basis for decentralized planning boards.

Councilmanic District Locus - There are 27 councilmanic districts, and while the districts do not always reflect cohesive community viewpoints, each is of similar size and

each is already organized in accord with at least a basic governmental structure. This suggests that the existing councilmanic districts, with possible minor changes, could serve as the geographic bases for organizing a decentralized planning function.

Community District Locus/Appointed Board - There are 62 community planning districts which vary greatly in geographic and population size. Their community boards are now appointed by the Borough Presidents. There is no consistent coterminality between these planning districts, existing service districts, or even councilmanic districts. Community Boards do, however, exist. Moreover, both a great deal of planning data, as well as the proposed community plans included in the City Planning Commission's 1970 Plan for New York City, are organized on the basis of these community districts. There is a strong rationale for basing the decentralization of the planning function on these community districts and boards.

Community District Locus/Elected Board - The important difference between the previous option and this one lies in the possibility of electing the members of the community boards. This need not, of course, require the election of as many as some 3,000 members, since there is no clear rationale for retaining the existing provision that the community boards include up to 50 members each. While the election of community board members is an attractive concept,

it would probably result in an excessive politicization of the decentralized planning function as well as in excessive and essentially negative parochialism.

- Instrumentalities favoring Centralization: A variety of Charter proposition instrumentalities could enhance planning's centralization; however, only two warrant mention, since it is unlikely that the planning function would be further centralized.

Abolish Commission and Appoint Zoning Administrator

This reform instrumentality has been briefed as an instrumentality also favoring planning's politicization (page 103).

Mayor Appoints Deputy Mayor for Planning and Budgeting

This reform instrumentality has been briefed as an instrumentality also favoring a mayoral orientation for planning (page 108).

Fragmentation vs. Consolidation

- Instrumentalities favoring Fragmentation: Although a number of Charter proposition instrumentalities could favor further fragmentation, this would be at cross-purposes with any effective decentralization initiative. As a result, only one fragmentation instrumentality is analyzed.

Commission Acquires Final Authority Over Zoning Resolution

The Board of Estimate now shares responsibility with the City Planning Commission for the Zoning Resolution. This is not the case with either the Master Plan or the Capital Improvement Plan. This suggests that the City Planning Commission could be granted

final authority over the Zoning Resolution. The cost of duplication and delay, resulting from the present sharing of responsibility for the Zoning Resolution by both the Commission and Board, could be avoided by granting the Commission final authority over the Resolution.

The Board's calendar would also be freed with regard to decisions which warrant considerable technical briefing, although such briefing can be made available to all its members. The Commission, however, does have more direct and ready access to such briefing through its Department of City Planning. Granting the Commission final authority over the Resolution could have the effect of further professionalizing its administration and certainly its policy review.

- Instrumentalities favoring Consolidation: A number of Charter proposition instrumentalities favor the consolidation of the planning function. These are the most important:

Mayor Appoints Deputy Mayor for Planning and Budgeting

This reform instrumentality has been briefed as an instrumentality also favoring a mayoral orientation for planning (page 108).

Merge Zoning Resolution and Variance Functions

At present, the Zoning Resolution and its amendment are primarily the responsibility of the City Planning Commission, subject to select Board of Estimate review; however, the decision to grant variances from the Zoning Resolution is the sole responsibility

of the Board of Standards and Appeals. This fragmentation of responsibility, while intended to be complementary, in fact encourages forum shopping. It also encourages the retention of the Resolution free of amendments which might be forthcoming were the variance process unavailable as an alternative to amendment.

This imposes a certain inequity on unsophisticated builders or others requesting building permits. The reason is that they could be subject to an excessively rigid Zoning Resolution, which sophisticated builders can avoid by requesting and obtaining variances in appropriate instances. The major disadvantage of consolidating these functions, presumably under the City Planning Commission, is that a Commission empowered to maintain the Resolution's integrity might not be so ready to grant appropriate hardship variances. Nonetheless, the fragmentation of these two functions seems very much an unnecessary duplication of complementary functions.

Overhead vs. Operating Agency Orientation

- Instrumentalities favoring Overhead Orientation: Although a number of Charter proposition instrumentalities could enhance planning's present overhead orientation, only one warrants particular mention.

Mayor Appoints Deputy Mayor for Planning and Budgeting

This reform instrumentality has been briefed as an instrumentality also favoring a mayoral orientation for planning (page 108).

- Instrumentalities favoring Operating Agency Orientation: One particular Charter proposition instrumentality favoring an operating agency orientation for planning warrants special attention.

Housing and Development Administration Absorbs City Planning Commission

That the isolation of the City Planning Commission and the Department of City Planning from the Housing and Development Administration works a certain hardship on the planning function has been well established. Planning is, after all, inextricably involved in housing and urban renewal, the implementation of which is the responsibility of the Housing and Development Administration.

This suggests that both the City Planning Commission and the Department of City Planning should be transferred to this Administration. The effect of this transfer would be to decrease planning's isolation of the Housing and Development Administration's line function, enhance its implementation follow-through, and increase its likelihood of both proposing and adopting reform initiatives. It would also have the effect of better relating housing, zoning, and budgeting, while at the same time diminishing the diffusion of effort and scope which the planning function now tends to suffer. The major disadvantages of this arrangement are that it could reduce planning's inter-agency coordination function and narrow its perspective with regard to both time and scope.

APPENDIX

This Appendix consists of three parts.

The first describes a number of decentralization models now operating or formally proposed in cities throughout the country. There are a great many more decentralization models in operation, but which are not described. Most of these are working informally without official sanction, although some work in spite of official sanction. Some of these are operating in New York City. That they may be effective is not denied, but if effective, then perhaps they warrant official sanction as well.

The second Appendix part contains the relevant planning sections of the 1963 New York Charter, as amended. These sections are included to facilitate review and revision of the planning function.

The third Appendix part consists of a list of private citizens and public officials who were interviewed during the course of work on the Charter report of New York City's planning function. The list covers only major interviews, although many individuals gave freely of their time. In all cases, confidentiality was assured. In addition, the list does not include the extensive review of relevant books, articles, studies, and testimony given before the Charter Revision Commission itself. All these sources contributed importantly to the work of Marshall Kaplan, Gans, and Kahn on Charter reform.

DECENTRALIZATION MODELS

There is no single structural model which is best suited to the organization of cities. In fact, the organization of cities varies widely, from the strong mayoral form to the weak mayoral form. Chicago and San Francisco are interesting cases in point, in this regard. Both cities' mayoral incumbents are considered politically strong mayors. But in Chicago, the strong mayoral form dictates a planning structure in which both the Mayor and Chairman of the City Council Finance Committee are members of the City Plan Commission, which adopted a Comprehensive Plan in 1966; most city functions fall under the Mayor's formal purview, so that the City has few autonomous commissions with independent political or administrative allegiance.

In San Francisco, by contrast, the traditional mayoral function is shared with a Chief Administrative Officer whose appointment is independent of the incumbent Mayor or even Board of Supervisors (city council). The City Planning Commission is also independent of the Mayor, although the City's Chief Administrative Officer is a member. San Francisco does not have an adopted comprehensive plan, and a great many of the City's functions are the responsibility of autonomous commissions politically and administratively independent of the Mayor.

The point is that the fact of a politically strong mayor is only partially a function of structure. Nor is it clear that either form is more conducive to responsive government. Moreover, either form lends itself in different degrees to decentralization, which can in turn be merely administrative or political in nature.

Both the administrative and political decentralization models can take a number of different forms. All administrative decentralization models, however, share in common the basic management principle that central authority is retained, and that only degrees of responsibility are devolved outward from the center to locales or districts. By contrast, all political decentralization models share in common the equally basic management principle that not only responsibility, but also authority, for certain functions is devolved outward from the center. The distinction is an important one. It goes to the heart of the nature of accountability. Thus, administrative decentralization emphasizes the "listening" and/or largely rote management function; instead, political decentralization emphasizes risk-taking authority and the concomitant risk of political accountability.

Comparative Decentralization Models

Any number of decentralization models have been formally proposed, and some have been enacted by municipalities. The following several models, all of which have been proposed or enacted outside New York City and most of which focus on the zoning functions of planning, are particularly noteworthy.

The general focus of these decentralization models on zoning could be broadened to include other planning functions as well, such as the site selection, capital programming and budgeting, comprehensive planning, and mapping functions.

Recent structural and process reforms have moved beyond extended notice provisions for variance proceedings, to recognize neighborhood organizations. This can involve the devolvment of responsibility to neighborhoods or districts for planning and executing improvement projects within the context of the city's planning and development function.

Such reforms may operate in several ways. Voters may be engaged in planning and zoning hearings directly through petitions and community meetings, to consider special treatment of their districts. Active district-oriented organizations may be recognized and invited to participate in land use decisions. They may also be provided expert help privy to city planning decisions to aid them in drawing district proposals.

Businessmen in decaying commercial districts, and homeowners in similarly decaying residential districts, may be invited to design preservation and renewal programs. The most ambitious proposals would create district mini-governments, with powers to zone and undertake improvements in municipal services. Indiana, the only state explicitly authorizing such an approach, severely limited the powers of its mini-governments in the final version of its enabling legislation.

- Neighborhood Zoning Districts: Buffalo is a City which is presently considering the establishment of "Special Neighborhood Districts" to enhance grass-roots participation in the district zoning process, in recognition of the fact that any number of considerations such as public investment or peculiar geography may create land use problems on a localized level. Such a neighborhood district could be established by action of the Common Council on its own motion or upon petition by residents of the proposed district.

If the Common Council wished itself to establish a neighborhood district, it would first direct the Planning Board to designate tentative boundaries and appoint a temporary district advisory

committee consisting of not less than five members. Appointments to the advisory committee would be subject to Council confirmation. A petition signed by one hundred or more residents within the boundary of a proposed district would be necessary to direct the Council to initiate these procedures in instances where the Council did not itself take the initiative.

Advisory committee members, serving without pay, would meet and consult with the Planning Board or representatives from the City Division of Planning on the formulation of regulations for a special neighborhood district or districts designed for such neighborhood. Theirs would be an on-going role in the process of developing the special district regulations. Nevertheless, their actual authority would be very limited, and it is the Planning Board which would decide whether to proceed after the first public meeting is held.

As proposed in Buffalo, the first public meeting would be a sounding board for district sentiment and suggestions regarding appropriate regulations and boundaries. Assuming public support and approval by the Planning Board, the Board would then prepare tentative district regulations, consulting both the Zoning Coordinator and the advisory committee. These proposals would then be presented at a second meeting.

The second district meeting would be a sort of pre-hearing for the zoning amendment process, at which citizens could

suggest modifications of the proposed regulations before final hearings on the amendment are scheduled. Again, the Planning Board would retain the final decision on whether suggestions would be incorporated in an amendment proposal. When it has drafted a final set of regulations, the proposals would be channeled into the regular amendment process.

Several shortcomings can be noted. First, this arrangement fails to take account of organized community organizations, which may have a capacity for making valuable contributions or generating proposals on their own. Second, only one local meeting would be required, and the advisory committee would lack authority to locally publicize suggested regulations on its own except in the context of the second public meeting; nor is there any suggestion that such an action would be considered. Third, under the proposed amendment procedures, since a hearing may not consider the same proposal as is considered at a neighborhood meeting, it is evident that the Planning Board and Common Council would retain paramount authority throughout this process.

Thus, while the procedure proposed for Buffalo provides contact between the residents of a district and the city planners responsible for drafting the special district regulations, it takes a conservative approach to the issue of decentralization.

- Development Improvement Districts: Detroit has granted neighborhoods the tools to shape district improvements for themselves,

without changing their zoning district regulations. Aimed primarily at neglected neighborhood commercial centers, the "Development Improvement Area" was established in a special zoning provision. To permit property owners in business or other areas to request City assistance in upgrading the external physical appearance of their area. The provisions allow for the employment of a design consultant to prepare a development improvement plan. Provision is also made for establishment of a special assessment district to defray all or part of the costs of such improvement projects.

Utilizing the zoning and planning administrative structures, district improvements can be coordinated with neighborhood desires and the City's planning effort. Success apparently depends in no small part upon the ability of the City planning staff to help residents visualize their options in dealing with older buildings.

Designation begins with a petition by the owners of at least 75 percent of the land frontage of both sides of a block. If the petition is approved by the City Council, hearings are set and a notice is sent to all property owners inviting them to participate under the plan. The first hearing familiarizes residents with the program, and they are then asked to ratify the establishment of a Development Improvement Area. Once a designer is chosen to assist in preparing a development improvement plan, a special assessment roll to

pay the design costs is prepared. If all participants pay the first assessment within 60 days, the project goes forward through the design stage. After additional meetings between district participants and the Plan Commission, another public hearing is held. After the district plan has been presented at this second hearing, a second petition by the owners of 51 percent of the affected frontage and a 20 percent initial payment by the assessed land's owners must be forthcoming. If no payment is received within 60 days, the matter is referred back to the City Council to be publicly funded or die.

This process has two features. First is the negotiation between interested property owners and city agencies, with the Plan Commission principally charged with aiding the property owners. Second is the public hearing consensual approach used to engage other landowners, and finally to bind them once they have made their initial payments. While other procedures may imply citizen participation, the Development Improvement Area demands it or the procedure fails. While 100 percent of the landowners may not be involved, those who are have the added satisfaction of knowing that their labor and/or money is going directly into district improvements that they had a voice in designing. Since existing planning and zoning staff administer the program, bureaucratic overhead is also kept to a minimum.

As a technique for allowing citizen participation in zoning, the Development Improvement Area alone also has several shortcomings. Its greatest is its narrow perspective, which envisions

community involvement on a limited scale in zoning districts where existing permitted uses deserve an extra measure of support. It makes no allowance for up-grading or adjusting zoning in the district. This may be understandable since, at least in its conception, the improvement district concept is a cosmetic device and ordinarily would not affect underlying uses in a district. Considered in conjunction with urban renewal rehabilitation programs or other large-scale public or private investment programs, however, a technique for allowing citizens a voice in neighborhood rezoning is also important. The provision proposed for Buffalo may do this in varying degrees, although they omit the self help and direct involvement possible in Detroit.

- District Planning: Baltimore assigns "advocate" planners from its District Planning Division to serve community groups, giving them indirect access to zoning decisions. Their approach is to provide a liaison who can report to the city planning staff on district problems, and at the same time provide expert advice for "umbrella" community organizations concerned about future city actions affecting their members. Without a formal zoning role, the Baltimore program is at least one step removed from the proposed Buffalo approach. Although well-organized "umbrella" community organizations can often afford the advice of their own city planners, apart from the planning services traditionally provided by a city, Baltimore sees certain advantages in its system.

From the district's point of view, there is direct access to the decision-makers in City Hall. Zoning for a half-way house, and accommodation of a Federal lease-purchase agreement are both attributed to advocate planning through community organizations, in the four areas of Baltimore where the district planners have been active. The planners also serve in a trouble-shooting role, directing residents to the correct city departments to deal with their problems. In this sense, they provide lateral access to the bureaucracy in some degree.

Although public improvements, including appropriate zoning adjustments, may materialize under such an approach, delicate questions regarding the planner's primary allegiance also arise. Should he alert district residents to new proposals before the Planning Commission has taken an official position? That is the obvious result, if he is both honest and privy to current planning decisions, two characteristics highly valued by Baltimore's community organizations benefiting from this expertise. The City Planning Department also has found that the planners tend to "burn out" rapidly, seldom lasting more than a year in the position without feeling drained by the experience. The possibility of having to live with political conflicts within the city government further complicates the district planner's life.

The various criticisms notwithstanding, Baltimore's experience indicates the value of on-going contact and communication with community representatives, allowing a prompt response when the

district needs a half-way house or other facility without disrupting the overall community structure. It also may serve as a warning of the divided allegiances and problems which may result under even seemingly straight-forward zoning provisions, such as are proposed for Buffalo.

- Mini-government: Indianapolis has just culminated a three year fight for enabling legislation in the Indiana legislature. The "Minigov" Bill was adopted in early 1972, as the first step for neighborhood home-rule in Indianapolis and other large Indiana cities. While the bill, as adopted, considerably diluted the authority originally proposed for the community councils which it created, the machinery for district home-rule is nonetheless established.

The basic elements of this machinery are: 1) a plan dividing each eligible city into districts of not less than 5,000 people each; 2) provisions allowing district boundary changes by the voters, or when new census data is available; 3) a referendum to approve the principle of district government by community council, held in each district created by the plan; 4) assuming such approval, a general election held to elect the community council. The community councils established in accord with this machinery may exercise severely limited powers under the present legislation, and is specifically prohibited from levying taxes, issuing bonds, adopting regulations or ordinances except as specifically authorized, exercising any city power not specifically authorized by the City Council, exercising any

extra-territorial powers, accepting funds without the consent of the City Council or changing its own boundaries.

Each community council is composed of at least one councilman elected from each voting precinct, and if the district has less than three precincts, three members are elected with the additional councilmen elected at-large. The ballots are non-partisan and councilmen serve their two-year terms without pay.

The original legislation would have created strong home-rule powers in the community council, including zoning and eminent domain. While this was eliminated in the final version of the Bill, the council does have considerable power to contract for services such as police, fire, and parks, and to initiate proposals with respect to the City's Master Plan. It is also entitled to represent residents in all city administrative proceedings affecting the district, and is specifically assured notice of all zoning amendments which would change the zoning classification of parcels located in the district.

While some criticize the restraints enveloping these newly-authorized community councils, this legislation does create a flexible local body with close community contact which can represent its residents before the city administration, providing it is adequately funded. When healthy community organizations already exist, however, it may be quite as efficient to provide for expert assistance as in Detroit and Baltimore, without going to the expense of developing an administrative infrastructure subordinate to that serving the City Council.

- Legitimizing Community Organizations: Columbus, Ohio is presently considering draft provisions to formally recognize qualified organizations as legitimate parties to zoning proceedings affecting the district they represent, and permit special district zoning for neighborhood districts subject to City Council approval.

The proposed neighborhood zoning districts were created out of a concern for special characteristics not fully appreciated by the city government. The procedures proposed for the Columbus zoning districts share characteristics in common with those proposed or now implemented elsewhere. First, boundaries of the districts are proposed subject to the approval of the City Council. Second, a committee of ten residents from each district would be formed to help formulate proposals and conduct public meetings to test community sentiment. Finally, at the conclusion of the public meetings, the district committee would submit written recommendations to the City Council concerning: 1) boundaries of the proposed district; 2) uses within the proposed district; 3) regulations; 4) special district regulations; and 5) other special matters of concern in the district. Presumably, the recommendations will have been drawn with the advice of the city planning staff and will be given significant weight in drawing final boundaries and regulations.

This procedure seems to incorporate the best elements of the Indianapolis proposals with respect to land use, without creating an on-going structure which needs continuing nourishment. By

terms of the draft, the district committee would hold monthly public meetings within the boundaries of the proposed district, and would have the help of the Assistant Director of Development for zoning and his staff in conducting the meetings and presenting proposals. While it is not clear in the Columbus draft, a City could permit a qualified community organization to be represented on the district committee as well, although the zoning regulation providing for such recognition seems best suited to on-going surveillance of land use and development decisions beyond the reach of short-lived district committees.

District organizations meeting the qualification standards of this proposal would gain the rights otherwise accorded a district property owner in zoning hearings and proceedings. The application for recognition must include evidence verifying the following facts: 1) boundaries of the district represented; 2) address of a representative or regular office; 3) names and addresses of officers and directors; 4) representation of more than 20 percent of the registered voters living within the district boundaries; 5) a minimum of 50 members; 6) 50 percent of the land within the boundaries is developed for residential uses; 7) full participating membership is open to all registered voters; and 8) the regular time and place of meetings. Meetings must be open and minutes kept, copies of which are transmitted to the Zoning Administrator. Qualification must be renewed at three-year intervals.

The Columbus approach would bring community organizations into the zoning and planning process in an adversary role, in contrast with the attempt in Baltimore to mix the adversary elements of the zoning variance and amendment process and cooperative longer-range planning activities. While a judgment as to which aspect of community participation is more important should be left to the district, it may be useful to note that Columbus would provide for cooperative neighborhood efforts under its decentralization proposal. While the solution may not be ideal, it can help to prevent the types of friction noted in Baltimore, where the community planners were sometimes pressed into conflicting roles.

RELEVANT CHARTER PROVISIONS

The 1961 New York City Charter, as amended, mandates a number of the structures, functions, and responsibilities of agencies and boards directly involved in the conduct of the planning function:

- Policy Planning Council

No Charter mandate.

- City Planning Commission and Department of City Planning

- . Chairman - Section 191
- . Structure - Section 192
- . Removal - Section 193
- . Responsibilities: Master Plan - Section 197; City Map - Sections 198 and 199; Zoning Regulations and Changes - Sections 200 and 201; and Platting of Land - Section 202.
- . Director of City Planning - Section 191a
- . Department of City Planning Staff - Section 191, Subsection 6-C
- . Draft Capital Budget Responsibilities - Sections 212 through 224.

- Board of Standards and Appeals

- . Director - Section 659
- . Staff and Duties - Section 660
- . Appointment/Removal - Sections 661 and 662
- . Meetings, Voting Restrictions, Rules - Sections 663 and 665
- . Jurisdiction - Sections 666 and 667
- . Appeals - Section 668

- Site Selection Board
 - . Membership and Responsibilities - Section 227
- Borough Improvement Boards
 - . Structure - Section 84
- Community Districts/Community Planning Boards
 - . Formulation - Section 83
 - . Structure - Section 84

City Planning Commission Department of City Planning

Department and Director of City Planning

§ 191. a. There shall be a department of city planning, the head of which shall be the director of city planning. He shall be chairman and a member of the city planning commission.

b. The director of city planning shall:

1. Advise and assist the mayor, the board of estimate and the council in regard to the physical planning and public improvement aspects of all matters related to the development of the city.

2. Provide staff assistance to the city planning commission in all matters under its jurisdiction.

3. Be the custodian of the city map and record thereon all changes legally authorized.

4. Conduct continuous studies and collect statistical and other data to serve as the basis for planning recommendations.

5. Provide to the community district planning boards, when established, such staff assistance as he may determine.

6. Perform such other functions as are assigned to him by the mayor or other provisions of law.

c. The department shall employ such planning experts, engineers, architects and other officers and employees as may be required to perform its duties, within the appropriation therefor.

City Planning Commission

§ 192. a. There shall be a city planning commission to consist of the chairman and six members to be appointed by the mayor. Except as provided in section one hundred ninety-one, no member shall hold any other city office. Members other than the chairman shall be appointed for a term of eight years, except that in case of a vacancy in the office of a member other than that of the chairman the mayor shall appoint a member to serve for the remainder of the unexpired term.

b. One of the members other than the chairman shall be designated by the mayor as vice-chairman and shall serve as such at the pleasure of the mayor. The vice-chairman shall possess the powers and perform the duties of the chairman when the chairman is absent or while a vacancy exists in the office of chairman, and shall at such times serve as director of city planning.

Removal by Mayor After Hearing

§ 193. A member of the commission other than the chairman may be removed by the mayor only upon proof of official misconduct or of negligence in official duties or of conduct in any manner connected with his official duties which tends to discredit his office, or of mental or physical inability to perform his duties; and before removal he shall receive a copy of the charges and shall be entitled to a hearing before the mayor and to the assistance of counsel at such hearing.

Master Plan of the City

§ 197. a. The city planning commission shall prepare and adopt, in one or more parts, and from time to time modify a master plan for the physical development of the city, which shall provide for the improvement of the City and its future growth and afford adequate and appropriate facilities for the housing, business, industry, transportation, distribution, recreation, comfort, convenience, health and welfare of its population.

b. Before adopting the master plan or any part or modification thereof, the commission shall hold a public hearing or hearings thereon, notice of which shall be published in the City Record at least ten days prior thereto.

c. The master plan and all modifications thereof shall be on file in the office

of the department of city planning and certified copies thereof shall be filed in the offices of the city clerk and of each borough president. Upon the adoption of any modification of or in addition to the master plan, it shall be published in the City Record.

City Map

§ 198. a. The city map, as the same shall exist at the time when this charter goes into effect, is hereby continued.

b. The director of city planning shall be the custodian of the city map, and it shall be his duty to complete and maintain the same and to register thereon all changes resulting from action authorized by law.

c. The city map shall be on file in the office of the department of city planning, and certified copies thereof and of all changes thereto shall be filed in the offices of the corporation counsel, the city clerk and of the borough president of the borough in which the land shown on the map is located and in the office in which conveyances of real estate are required to be recorded in the county in which the land shown on the map is located. (*As amended by Chapter 998 of the Laws of 1962*).

Projects and Changes in City Map

§ 199. a. No improvement or project affecting the master plan or the city map and no addition to or change in the city map shall be authorized otherwise than as provided in this charter.

b. Before taking action on any proposed addition to or change in the city map not initiated by the commission, the board of estimate shall refer it to the city planning commission, which shall, after a public hearing, notice of which shall be published in the City Record for at least ten days immediately prior thereto, report thereon within ten weeks with respect to its relation to the master plan and the city map. If the commission shall report that the proposed action conforms to the master plan or shall recommend the approval or modification of such action it may be taken in accordance with the recommendations of the commission by a majority vote of the board of estimate. If the commission shall report that the proposed action does not conform to the master plan and shall not recommend approval of such action or shall recommend a modification thereof not accepted by the board of estimate, or shall fail to make its report within the said period of ten weeks, the board of estimate may nevertheless take the said action, but only by a three-fourths vote. (*As amended by Chapter 928 of the Laws of 1963*).

c. An addition to or change in the city map may be initiated by recommendation of the city planning commission to the board of estimate adopted after public hearing before the commission, notice of which shall be published in the City Record for at least ten days immediately prior thereto, with the same effect as a report made by the commission on a proposed addition or change referred to it by the board of estimate.

d. Upon the authorization of any such addition or change in the city map or the taking of any other action in accordance with the provision of this section, the city planning commission shall make such change, if any, in the master plan as it shall deem necessary to conform thereto.

Zoning Regulations

§ 200. Any existing resolution or regulation of the board of estimate or of the city planning commission to regulate and limit the height and bulk of buildings,

to regulate and determine the area of yards, courts and other open spaces, to regulate density of population or to regulate and restrict the locations of trades and industries and location of buildings designed for specific uses or creating districts for any such purpose, including any such regulation which provides that the board of standards and appeals may determine and vary the application of such resolutions or regulations in harmony with their general purpose and intent and in accordance with general or specific rules contained in such regulations, may be amended, repealed or added to only in the following manner:

1. The city planning commission may upon its own initiative at any time, or upon application as provided in section two hundred one, adopt a resolution for any such purpose subject to the limitations provided by law. Before adopting any such resolution, the commission shall afford persons interested an opportunity to be heard at a time and place to be specified in a notice of hearing to be published in the City Record for the ten days of publication of the City Record immediately prior thereto setting forth in general terms the nature of the proposed resolution and a statement of the place at which the entire resolution may be examined. Any such resolution shall be filed with the secretary of the board of estimate within five days from the day of its adoption.

2. Approval, disapproval or modification by the board of estimate of a recommendation by the commission for a change in the zoning resolution must occur within sixty days from the date of filing of the recommendation of the commission with the board. In case the board shall fail to act on such affirmative resolution within such period of sixty days, such change shall be deemed approved and effective on the sixty-first day after the date of filing unless a protest of owners of affected property shall have been filed in accordance with the provisions of subdivision three. Any resolution for a zoning change which the mayor shall have certified to the planning commission as necessary, and which has been disapproved by the commission, may be adopted by the board of estimate by a three-fourths vote and after a public hearing. The foregoing limitation of sixty days shall be inapplicable to such an adoption and the change shall become effective at a time fixed by the board of estimate.

3. In case a protest against a proposed resolution shall have been presented to the secretary of the board of estimate within thirty days from the date of such filing, duly signed and acknowledged by the owners of twenty per centum or more of the area of

(1) the land included in changes proposed in such proposed resolution, or

(2) the land immediately adjacent extending one hundred feet therefrom, or

(3) the land, if any, directly opposite thereto extending one hundred feet from the street frontage of such opposite land,

such resolution shall not be effective after the filing of such protest unless approved by the board of estimate, either in the form in which it was filed or as modified by the board, by a three-fourths vote of the board within one hundred eighty days after the filing of said resolution with the secretary of the board of estimate. The effective date of such resolution, if so approved, shall be the date of such approval. A protest duly filed as herein provided may be withdrawn at any time within sixty days from the date of the filing of such resolution.

Applications for Zoning Changes

§ 201. Applications for changes in zoning resolutions or regulations may be filed by any taxpayer with the city planning commission during the month of January in any year. The commission shall consider and act upon such applications and may hold public hearings thereon, notice of which shall be given in the same manner as provided for other hearings in section two hundred.

Platting of Land and Dedication of Streets and Public Places

§ 202. a. No map of a subdivision or platting of land into streets, avenues or public places and blocks within the limits of the city shall be received for filing in the office in which instruments affecting real property are required to be recorded in the county in which the land is situated, unless such map shall have been submitted to the board of estimate and approved by such board, after transmittal to the city planning commission for report, by the same procedure as provided in subdivision b of section one hundred ninety-nine for changes in the city map. If such map is disapproved by the board of estimate, the secretary of the board shall certify such fact in writing upon such map, and such map shall be received only for record without such approval.

Report of Comptroller

§ 212. Not later than the fifteenth day of October in each year, the comptroller shall submit to the mayor, the board of estimate, the council and the city planning commission a report, which shall be published forthwith in the City Record, setting forth* the amount and nature of all obligations authorized on account of each pending project and the liabilities incurred for each project outstanding on the first day of July and setting forth and commenting in detail upon the city's financial condition and advising as to the maximum amount and nature of debt which in his opinion the city may soundly incur for capital projects during each of the six succeeding fiscal years, and containing such other information as may be required by the mayor. *(As amended by Local Law 30 of 1963).*

Departmental Estimates for Capital Projects

§ 213. On such date as the mayor may direct, but not later than the fifteenth day of October, the head of each agency shall submit to the mayor and the city planning commission a detailed estimate of all capital projects pending or which he believes should be undertaken within the six succeeding years. Such estimates shall be known as departmental estimates for capital projects and shall be in such form and contain such information as may be required by the mayor and the director of city planning. *(As amended by Local Law 93 of 1961, and Local Law 30 of 1963).*

Departmental Estimates Public Records

§ 214. Such departmental estimates shall be public records and shall at all reasonable times be open to public inspection.

Departmental Hearings

§ 216. Each member of the council and each member of the board of estimate shall have the right to attend in person or by a representative any and all hearings conducted by the city planning commission at which the heads of agencies or their representatives or subordinates appear to explain their departmental estimates, to ask such questions and to require the production of such papers and records at such hearings as may seem to him appropriate and proper. The director of the budget shall attend in person or by a representative all such hearings and shall render to the city planning commission such assistance and advice as it may require in the preparation of the draft capital budget. The public may be present at such hearings but shall not have the right to be heard. *(As amended by Local Law 30 of 1963).*

Draft Capital Budget and Capital Improvement Plan

§ 217. Not later than the second day of January, the city planning commission shall submit to the mayor and publish in the City Record a draft capital budget for the ensuing fiscal year, the aggregate amount of which shall not exceed the amount specified in the mayor's certificate, and a draft capital improvement plan for the five fiscal years next following the ensuing fiscal year. Before so doing the commission shall prepare and publish in the City Record* a preliminary budget and plan and at least five days after such publication hold one or more public hearings thereon. Notice of such hearings shall be published in the City Record for the five days of its publication immediately prior thereto. The city planning commission shall at the same time so submit and publish comments in regard to projects included in such draft capital budget whether originated in the departmental estimates or by the commission, including any significant information in regard to their conformance with the master plan so far as developed, their relation to a suitable development of the community, whether they will make necessary or desirable the undertaking of other capital projects, whether they have been combined with or can be combined with or have a significant relation to other capital projects pending or proposed, and any recommendation the commission may make as to their urgency or priority in the orderly development of the city. *(As amended by Local Law 30 of 1963).*

Draft Capital Budget; Contents

§ 218. The draft capital budget as submitted by the city planning commission shall set forth separately each capital project and shall be arranged in such manner as to set forth clearly:

1. As to each such project: a brief description and location; the total estimated cost; the amount of obligations which have been authorized to date, the amount of obligations which are required to be authorized during the balance of the current fiscal year, the amount of obligations recommended to be issued in the ensuing fiscal year, the amount of obligations required thereafter to complete the project, and the sources of funds thereof; the statutory period of probable usefulness; the estimated additional annual debt service; the estimated additional annual maintenance and operation cost; and any terms and conditions of the project.

2. A listing of all pending projects and recommendations that any pending project be modified, abandoned or postponed.

3. Information in regard to capital projects for which the approval or authorization of the city is required, where such capital projects do not require the appropriation of city funds or the issuance of city obligations.

4. Such other information as the city planning commission or the mayor may deem pertinent or as may be required by law. The mayor may also require the city planning commission to prepare and submit to him on or before a date fixed by him a report in regard to any capital project not included in the capital budget submitted by the city planning commission together with a statement of whether or not the city planning commission approves of the inclusion of such capital project in the capital budget.

Executive Capital Budget

§ 219. a. Not later than the first day of February in each year the mayor shall submit to the board of estimate and to the council with an explanatory message, a proposed* executive capital budget for the ensuing fiscal year, the aggregate amount of which shall not exceed the amount in the mayor's certificate.

b. If the proposed executive capital budget submitted by the mayor contains any project which was not included by the city planning commission in the draft capital budget, or omits any project included in the draft capital budget, the mayor shall submit with his capital budget message the report, if any, of the city planning commission in regard to such project, together with a statement of his reasons for the inclusion or omission. The proposed executive capital budget and the accompanying message and any accompanying reports in regard to specific projects shall be published forthwith in the City Record. (*As amended by Local Law 30 of 1963*).

Recommendations of Comptroller and City Planning Commission

§ 220. Not later than the tenth day of February, the comptroller and the city planning commission shall submit to the board of estimate and to the council reports, which shall be published forthwith in the City Record, containing such comments and recommendations with respect to the proposed executive capital budget as they may deem advisable. (*As amended by Local Law 30 of 1963*).

Amendment

§ 224. a. Upon receipt of a recommendation in writing from the city planning commission, approved by the affirmative vote of two-thirds of the members thereof, and with the written approval of the mayor, the board of estimate and the council may amend the capital budget in accordance with such recommendation.

b. Upon the adoption of any such amendment by the board of estimate and by the council, it shall be certified by the mayor, the secretary of the board of estimate, the president of the council and the city clerk and the capital budget shall be amended accordingly.

c. Not later than five days after such certification such amendment shall be filed in the office of the comptroller and shall be published forthwith in the City Record.

Board of Standards and Appeals

Director of Standards and Appeals

§ 659. a. There shall be a director of standards and appeals who shall be appointed by and shall hold office at the pleasure of the board of standards and appeals.

b. The director shall be a registered architect or a licensed professional engineer who, at the time of his appointment, shall have had at least ten years' experience in structural work, at least five of which shall have been in administrative work. He shall devote his entire time to the performance of his duties and shall not engage in any other occupation, profession or employment.

Staff; Powers and Duties

§ 660. a. The director may appoint such engineers, architects, experts and other officers and employees as may be required to perform the duties of his office, with the approval of the board and within the appropriation provided therefor.

b. The director shall assign and supervise all members of his staff. He shall test or provide for the testing of materials and appliances and prepare and present matters before the board of standards and appeals in accordance with the rules, regulations and directives of such board, and shall prepare the calendar of such board.

Constitution and Appointment

§ 661. a. The board of standards and appeals shall consist of five members to be termed commissioners to be appointed by the mayor each for a term of six years, commencing at the expiration of the terms of the present incumbents.

b. Two of the members shall be registered architects and shall have had at least fifteen years' experience as architects. One shall be a licensed professional engineer and shall have had at least fifteen years' experience as an engineer engaged in structural work. One shall be a licensed professional engineer and shall have had at least fifteen years' experience as an engineer engaged in mechanical work. The mayor shall designate one of the members, who shall have had the required experience as an architect or as engineer, to serve as chairman and shall designate one of the members to serve as vice-chairman who shall act as chairman in the absence of the chairman or in the event that a vacancy exists in the office of chairman.

c. Every member of the board shall receive a salary, which shall not be reduced during his term of office except in case of a general reduction of salaries and in proportion to reductions of salaries of other officers with similar salaries. A member shall not engage in any other occupation, profession or employment. Members shall attend the hearings and executive sessions of the board, and shall perform such other duties as may be required by the chairman.

d. Vacancies shall be filled by the mayor for the unexpired term of the member whose place has become vacant and with a person having his qualifications.

Removal by Mayor After Hearing

§ 662. Any member may be removed by the mayor on proof of official misconduct, or of negligence in official duties, or of conduct in any manner connected with his official duties which tends to discredit his office, or of mental or physical inability to perform his duties; but before removal he shall receive a copy of the charges and shall be entitled to a hearing before the mayor and to the assistance of counsel at such hearing.

Meetings

§ 663. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings before the board shall be open to the public and shall be before at least three members of the board, and a concurring vote of at least three members shall be necessary to a decision. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official action. Such minutes and such records shall be public records.

Member Interested in Question

§ 664. No member of the board shall pass upon any question in which he or any corporation in which he is a stockholder or security holder is interested.

Rules and Regulations; Bulletin

§ 665. a. Every rule or regulation and every amendment or repeal thereof, and every order, requirement, decision or determination of the board shall immediately be filed in the office of the board and shall be a public record.

b. The director shall print and publish weekly a bulletin in which he shall publish every rule, regulation, amendment or repeal thereof made by the board, and every order, requirement, decision and determination of the board, and the reasons therefor whenever it shall deem it practical to do so, and such other matters, including indices and digests, as the director may deem it advisable to publish.

c. At least ten days' notice of intention to adopt, amend or repeal any rule or regulation shall be given by publication in the bulletin of the board, and a public hearing shall be given before any action is taken thereon. The adopted rules and regulations and amendments and changes thereof shall take effect not less than twenty days after the publication thereof in the bulletin of the board.

Jurisdiction

§ 666. The board shall have power:

1. To require the testing and to approve materials and appliances to be used pursuant to law.

2. To make, amend and repeal rules and regulations for carrying into effect the provisions of the laws, resolutions, rules and regulations in respect to any subject-matter, jurisdiction whereof is conferred by law upon the board, and to include in such rules and regulations provisions applying to specific conditions and prescribing means and methods of practice to effectuate such provisions and for carrying into effect the powers of the board.

3. To make, amend and repeal rules and regulations for the enforcement of those provisions of the labor law and other laws which relate to the construction, alteration, structural changes in, plumbing and drainage of, elevators in, fire escapes on, adequacy and means of exit from and fire protection in all buildings within the city, which shall take the place of the industrial code and of any rules and regulations of the department of labor of the state of New York relating to the same subject-matter.

3-a. To make, amend and repeal rules, regulations and directives governing the preparation and presentation by the director of matters before the board.

4. To exercise exclusively with respect to buildings situated within the city, the same powers as are exercised by the department of labor of the state of New York elsewhere in the state.

5. To determine and vary the application of the building zone resolution as may be provided in such resolution.

6. To hear and decide appeals from and review.

(a) except as otherwise provided by law, any order, requirement, decision or determination of the commissioner of buildings or any borough superintendent of buildings acting under a written delegation of power from the commissioner of buildings filed in accordance with the provisions of section 1804(4) of the charter or, (*As amended by Local Law 58 of 1967*).

(b) any order, requirement, decision or determination of the fire commissioner or any rule or regulation or amendment or repeal thereof made by the fire commissioner, or

(c) any order, requirement, decision or determination of the administrator of transportation or the administrator of economic development made in relation to the structures or uses on water front property under his jurisdiction in connection with the application or enforcement of the provisions of the zoning resolution of the city of New York, the labor law and such other laws, rules and regulations as may govern the construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment and inspection of structures in the city,

under the authority conferred upon them by law, by reversing or affirming in whole or in part, or modifying the order, regulation, decision or determination appealed from, and to make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have the power of the officer from whose ruling the appeal is taken, and of any officer under whose written delegation of power, such ruling was made. (*As amended by Local Law 70 of 1962 and Local Law 23 of 1968*).

7. In passing upon appeals, to vary or modify any rule or regulation or the provisions of any law relating to the construction, use, structural changes, equipment, alteration or removal of buildings or structures, or vaults in sidewalks appurtenant thereto, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the law, so that the spirit of the law shall be observed, public safety secured and substantial justice done, provided that the provisions of title D of chapter twenty-six of the administrative code and of any regulation or order issued under such title may be varied or modified only to the extent permitted by such title and only in the manner and subject to the conditions therein specified.

8. To review, upon motion of any member of the board, any rule, regulation, amendment or repeal thereof, and any order, requirement, decision or determination from which an appeal may be taken to the board under the provisions of this chapter or of any law, or of any rule, regulation or decision of the board; but no such review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified. The provisions of this chapter relating to appeals to the board shall be applicable to such review.

Inspections

§ 667. Any member of the board or any subordinate thereof shall, when authorized in writing by the chairman, and the director or any officer or employee designated by him in writing shall have power at any time to enter, inspect and examine any premises, buildings, structures, vehicles or vessels for the purpose of carrying out the duties of the board and shall report his findings in writing to the board. Refusal to permit such entry shall be triable by a city magistrate and punishable by not more than thirty days' imprisonment, or by a fine of not more than fifty dollars, or both.

Procedure on Appeals

§ 668. a. An appeal may be taken by any person aggrieved or by the head of any agency.

b. Such appeal may be taken within such time as shall be prescribed by the board by general rule, by filing with the officer from whom the appeal is taken and with the board a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

c. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall file with the board, after the notice of appeal shall have been filed with him, a certificate, a copy of which shall forthwith be mailed to the appellant at the address stated in the notice of appeal, that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by the supreme court, on application on notice to the officer from whom the appeal is taken and on due cause shown.

d. The board shall fix a reasonable time for the hearing of appeals, and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

e. Any decision of the board under this section may be reviewed as provided by law.

Site Selection Board

Site Selection

§ 227. a. There shall be a site selection board the members of which shall be the director of city planning, the director of the budget, the administrator of municipal service, the comptroller and, with respect to a capital project located wholly or partly within a borough, the president or presidents of the borough or boroughs in which the site is located. (*As amended by Local Law 69 of 1968*).

b. Every act of the board shall be by resolution adopted by a majority of the votes cast by all the members. No resolution shall be adopted except after a public hearing, notice of which shall be published in the City Record. No resolution of the board shall be effective unless approved in writing by the mayor.

c. Meetings of the board shall be called as directed by the board, upon notice thereof published in the City Record, provided that the mayor may call a meeting of the board at any time.

d. There shall be a journal of the meetings of the board. Said journal shall be a public record and shall contain a record of the votes taken on any resolution or other action of the board, the text of any resolution as passed by the board, a record of any other action taken by the board in such form as may be required by the board and such other matters as may be required by the board.

e. A stenographic record shall be made of all public meetings of the board. It shall be a public record, transcripts of which shall be promptly furnished to any citizen or taxpayer upon payment of reasonable fees therefor.

f. Except as otherwise provided by law, the board shall, wherever necessary, select sites for capital projects.

Borough Improvement Board

Borough Improvement Board

§ 85. There shall be in each borough a board to be known as the borough improvement board which shall consist of the borough president and the councilmen elected from such borough. The borough president shall be the chairman of such board which shall hold public hearings at stated intervals in the borough and report to the board of estimate, council, the mayor and the city planning commission on borough programs and proposed capital projects. Such board shall employ technical and clerical assistance within appropriations therefor.

Community Boards/Community Planning Districts

Community Districts

§ 83. The city planning commission, not later than March first, nineteen hundred sixty-eight, shall prepare and adopt, and, from time to time, modify a map of community districts within each borough. Such districts shall coincide, so far as feasible, with the historic communities from which the city has developed and shall be suitable as districts to be used for the planning of community life within the city. *(As amended by Local Law 128 of 1967).*

§ 84. **Community boards.** There shall be a community board for each community district created by the city planning commission pursuant to section eighty-three hereof. Each board shall consist of the Councilman at Large and the district councilmen elected from any area which includes a part or all of such community district and not more than fifty persons appointed by the borough president, after consultation with such district councilmen, who have a residence or a business, professional or other significant interest in the district and the Councilman at Large. In making such appointments the borough president shall give due regard to representation for each neighborhood within such district. Not more than twenty-five per cent of such appointments shall be city employees.

a. Members of community boards appointed by the borough president shall serve for overlapping terms of two years, one-half of the membership being renewed each year. They may be reappointed, and shall be removable by the borough president for cause. Three consecutive unexecuted absences from meeting of the board and the unexcused absence from more than one-half of the meetings called in any one year shall be a sufficient cause for removal. Vacancies shall be filled by the borough president for the remainder of the unexpired term.

b. Members of community boards shall serve as such without compensation.

c. Each such board shall:

1. Consider the needs of the district for which it serves and develop plans for the district's welfare and orderly development, including matters relating to only part of the district or to areas only partly within the district.

2. Advise, either on its own initiative or when requested, any public officer, agency or legislative body with respect to any matter relating to the welfare of the district, and its residents, but in each instance shall furnish the borough president with a copy of every written communication or statement giving such advice.

3. At its discretion hold public or private hearings or investigations with respect to any such matter.

4. Cooperate and consult with the local administrators of city departments and agencies having administrative districts including any part of the district it serves.

5. Assist city departments and agencies in making contacts with and transmitting information to the people of its district.

6. Cooperate with the boards of other districts with respect to matters of common concern, including matters which relate to parts of more than one district.

7. Render an annual report to the mayor and the borough president within three months of the end of each year and such other reports as the mayor or the borough president shall require. Such reports or summaries thereof shall be published in the City Record.

8. Keep minutes of its meeting and furnish copies to the borough president who shall be the custodian for all the records of such board.

9. Use all practical means to keep the public informed on matters relating to the welfare or development of its district.

10. Perform such other duties as may be prescribed by law.

d. All city agencies, except the Board of Estimate, Housing and Development Administration, the Environmental Protection Administration, Police Department and City Council, which require public hearings before they may act on matters before them, shall refer such matters to the community boards by furnishing their calendars or notices of meeting to the chairman of each such board and such other persons as the chairman may designate. At or before each public hearing, each community board shall, in the case of a project proposed by the City Planning Commission lying in whole or in part in its district, or in the case of a site for any such project proposed by the Site Selection Board, and in all cases with respect to any other matter referred to it, give its recommendation with respect to such matter. Such public hearing shall be adjourned once at the request of a community board when made on the grounds that the board has not had an opportunity to act on a matter referred to it unless the agency concerned by a majority vote of its members determines that circumstances warrant that it act without adjournment. If a recommendation is made by a community board it shall be reflected in the record of the agency with respect to such matter. In the event a community board shall fail to make a recommendation, the agency may nonetheless act, but its record shall reflect that no recommendation was made. Such agency shall notify the community boards of each action taken subsequent to such public hearing including adjournments thereof.

e. Each board shall meet at least once each month except during the months of July and August. The Borough president shall provide each board with a meeting place if requested by the board.

f. Each such board may create committees on matters relating to the welfare or development of its district. It may include in such committees persons with a residence or pertinent interest in the community who are not members of the board, but each such committee shall have a member of the board as its chairman.

g. Each such board shall elect its own officers and keep a public record of its activities and transactions, including minutes of its meetings and majority and minority reports.

h. Each such board may employ such assistants as it may require within appropriations therefor or using funds contributed therefor. The borough president shall provide suitable administrative assistance to expedite and coordinate the work of such boards, and the director of city planning shall provide professional assistance to aid them in the planning of their communities.

i. All agencies of the city shall give to such boards such information necessary for their work which they shall require.

j. The mayor shall call at least one meeting each year at which he, the members of the city planning commission, the borough presidents or their representatives, the councilmen and any other officers he may invite shall meet with the chairmen of the community boards or their designated representatives for the purpose of discussing the city-wide master plan and other planning matters affecting the whole city or more than one borough. The agenda for each such meeting shall be prepared in consultation with the mayor and the city planning commission. Each borough president shall call at least one meeting each year at which he, the councilmen from such borough, the members of the city planning commission and any officers he may invite shall meet with the chairmen of the community boards within his borough or their designated representatives for the purpose of discussing borough-wide planning matters and other matters affecting more than one district and their relation to the master plan. The agenda for such meeting shall be prepared jointly by the borough president and the councilmen from such borough in consultation with the city planning commission.

'Section 2. Paragraph 5 of subdivision b of section 191 of said charter is hereby amended to read as follows:

"5. Provide to the community boards, when established, such staff assistance as he may determine."

§ 3. This local law shall take effect immediately.

LIST OF INTERVIEWS

The following people were interviewed in connection with work on the Charter reform of New York City's planning function.

Mr. Dennis Allee
Executive Director
Temporary State Charter Revision
Commission for New York City
New York, New York

Mr. Charles Biers
City Council Offices
New York, New York

Mr. Manuel Carballo
First Deputy Administrator
Transportation Administration
New York, New York

Mr. Joseph J. Christian
Deputy Administrator/Commissioner
of Development
Department of Development
Housing and Development Administration
New York, New York

Ms. Martha Davis
Capital Budget
New York City Planning Department
New York, New York

Mr. Donald H. Elliott
Webster, Sheffield, Fleischmann,
Hitchcock & Brookfield
New York, New York

Mr. Neil Fabrikant
New York State
Legislative Study Center
New York, New York

Walter G. Farr, Professor
New York University Law School
New York, New York

Ms. Virginia Gallagher
Chairman
Community Board #12, The Bronx
New York, New York

Mr. Thomas Galvin
Executive Vice President
New York City Convention Center Corp.
New York, New York

Mr. Sidney Gardner
The Hartford Process
Hartford, Connecticut

Mr. Bernard Gladieux
Knight, Gladieux & Smith, Inc.
New York, New York

Mr. Harold Grabino
Peerage Properties, Inc.
New York, New York

Mr. Judah Gribetz
Shea, Gould, Climenko & Kramer
New York, New York

Mr. David Grossman
Director
Bureau of the Budget
New York, New York

Mr. Warren H. Haber
Chairman
New America Industries, Inc.
New York, New York

Mr. Frederick O.R. Hayes
Fund for New York City
New York, New York

Mr. Robert Hazen
New York State Urban
Development Corporation
New York, New York

Mr. William Josephson
Fried, Frank, Harris,
Schrivver & Jacobson
New York, New York

Mr. Louis Lauer
Attorney
Corbin and Gordon
New York, New York

Mr. Maxwell Lehman
Temporary State Charter Revision
Commission for New York City
New York, New York

Mr. Peter Lewis
Partner
Lazard Freres & Company
New York, New York

Mr. Robert Litke
New York State Urban
Development Corporation
New York, New York

Mr. Edward J. Logue
President & Chief Executive Officer
New York State Urban
Development Corporation
New York, New York

Mr. Bernard London
Chairman
Community Board #4
New York, New York

Mr. Andreas Lowenfeld
Professor
New York University Law School
New York, New York

Mr. Howard N. Mantel
Director
The Urban Analysis Center
The City University of New York
New York, New York

Mr. Norman Marcus
Counsel
New York City Planning Department
New York, New York

Mr. David McGregor
Assistant to the Administrator
Housing & Development Administration
New York, New York

Mr. Stanley Newman
Director
Comprehensive Planning
Assistance Program
New York City Planning Department
New York, New York

Mr. Barney Rabinow
New York City Planning Department
New York, New York

Mr. Chester Rapkin
Commissioner
New York City Planning Commission
New York, New York

Mr. Richard Ravitch
President
HRH Construction Corporation
New York, New York

Mr. Edward Robin
Temporary State Charter Revision
Commission for New York City
New York, New York

Mr. Harry Schwartz
Partner
Abeles & Schwartz
New York, New York

Mr. Charles Smith
Director
Queens Borough Planning Office
Long Island City, New York

Ms. Beverly Spatt
Brooklyn, New York

Mr. Roger Starr
Executive Director
Citizens Housing & Planning Council
New York, New York

Ms. Marietta Tree
Partner
Llewelyn-Davies Associates
New York, New York

Mr. Paul Willen, AIA
Associate
Gruzen & Partners
New York, New York

Mr. John Zuccotti
Chairman
New York City Planning Commission
New York, New York

In addition to the above-named people, the testimony of each of the five Borough Presidents given before the Temporary State Charter Revision Commission for New York City was carefully reviewed as well.

